

1 STATE OF MINNESOTA DISTRICT COURT

2 COUNTY OF RAMSEY SECOND JUDICIAL DISTRICT

3 - - - - -

4 The State of Minnesota,

5 by Hubert H. Humphrey, III,

6 its attorney general,

7 and

8 Blue Cross and Blue Shield

9 of Minnesota,

10 Plaintiffs,

11 vs. File No. C1-94-8565

12 Philip Morris Incorporated, R.J.

13 Reynolds Tobacco Company, Brown &

14 Williamson Tobacco Corporation,

15 B.A.T. Industries P.L.C., Lorillard

16 Tobacco Company, The American

17 Tobacco Company, Liggett Group, Inc.,

18 The Council for Tobacco Research-U.S.A.,

19 Inc., and The Tobacco Institute, Inc.,

20 Defendants.

21 - - - - -

22

23 DEPOSITION OF HALLIE S. JESSUP

24 Volume I, Pages 1 - 264

25

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P.O. BOX 18188, MINNEAPOLIS, MN 55418 1-800-553-1953

1           (The following is the deposition of  
2 HALLIE S. JESSUP, taken pursuant to Notice of Taking  
3 Deposition, under Rule 30.02(f), at the offices of  
4 Womble, Carlyle, Sandridge & Rice, Attorneys at Law,  
5 3300 One First Union Center, 301 South College  
6 Street, Charlotte, North Carolina, on April 10, 1997,  
7 commencing at approximately 8:57 o'clock a.m.)

8

## 9 APPEARANCES:

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## 1 I N D E X

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4		4 pages	7
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6		Spears to Bennett, Bates	
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8	1002	3-12-71 Inter Department	
9		Memo, Dees to The	
10		Organization, Bates	
11		01425800-801	47
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1	1009	May 19 and October 26,	
2		1988 letters, Jessup to	
3		Rains, Bates 87931508-511	51
4	1010	Case Management Order,	
5		18 pages	126
6	1011	Plaintiffs' First Set of	
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1           1017   Records Transfer Lists, Bates  
2                   87928302-474, 477-528           225  
3           1018   Records Transfer Lists, Bates  
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1 P R O C E E D I N G S

2 (Witness sworn.)

3 (Jessup Plaintiffs' Exhibit 1000 was  
4 marked for identification.)

5 HALLIE S. JESSUP

6 called as a witness, being first duly  
7 sworn, was examined and testified  
8 as follows:

9 ADVERSE EXAMINATION

10 BY MR. O'FALLON:

11 Q. Would you please state your name for the  
12 record.

13 A. Hallie S. Jessup.

14 Q. Ms. Jessup, I'd like you to take a look at  
15 what's been marked as Plaintiffs' Exhibit 1000 and  
16 ask you whether or not you recognize that document.

17 A. Yes, I do.

18 Q. This is a document that's entitled a "NOTICE OF  
19 TAKING DEPOSITION," and this deposition is being  
20 taken pursuant to Minnesota Rule 30.02(f), which is  
21 also referred to in the Federal jurisdiction as a  
22 30(b)(6) deposition.

23 Do you understand that you have been designated  
24 by Lorillard to testify at this deposition?

25 A. Yes, I do.

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1 Q. And do you understand the subject matter of this  
2 deposition?

3 A. Yes, I do.

4 Q. That is, on behalf of Lorillard you are here to  
5 testify concerning the collection and production of  
6 documents produced in this litigation; correct?

7 A. That is correct.

8 MR. MONICA: I'd like to state for the  
9 record that we have cross-noticed this deposition  
10 with the State of Washington, and Mr. Ferguson, the  
11 representative of the State of Washington, is here  
12 and participating in the deposition. And we have  
13 cross-noticed the -- Mrs. Jessup's deposition in that  
14 state with regard to one of the paragraphs in their  
15 30(b)(6) notice; that paragraph on Exhibit A of their  
16 duces tecum is paragraph number three, which says,  
17 quote, the -- "produce someone on the subject of the  
18 production of documents into the Minnesota  
19 depository," end quote, so she will be testifying  
20 today and throughout her deposition both with regard  
21 to what the State of Minnesota has designated, which  
22 is the production and collection of documents into  
23 Minnesota, the Minnesota depository, and as to the  
24 paragraph that I just read in the Washington notice,  
25 and we do stipulate that Mrs. Jessup's deposition

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1 today and tomorrow may be used in the State of  
2 Washington as well as in the State of Minnesota.

3 MR. O'FALLON: And just let me state for  
4 the record that while I will be asking questions that  
5 go generally to your document production and document  
6 collection procedures, there will be times that I  
7 will simply ask you to focus in on Minnesota-specific  
8 issues, and I will try to make that clear to you when  
9 we do so, so as not to overly confuse the record.

10 I also want to state that it's my understanding  
11 that the State of Washington has agreed to comply  
12 with our court orders and that the State of  
13 Minnesota's deposition will go first and will be  
14 completed in its entirety before Washington is  
15 allowed to question further. Is that correct?

16 MR. MONICA: That is --

17 MR. FERGUSON: Correct.

18 MR. MONICA: That's my understanding, and  
19 additionally, it is understood that when the State of  
20 Minnesota completes its examination, the court  
21 reporters will change, and we have arranged for a  
22 different court reporter to come in because we  
23 realize you're going to take your court reporter with  
24 you and -- and the technology that they have.

25 MR. O'FALLON: Right. With that said,

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1 let's go back to the deposition.

2 BY MR. O'FALLON:

3 Q. Ms. Jessup, what I'd like to do, first of all,  
4 is cover some of your employment history with  
5 Lorillard, and in order -- I will do that by asking  
6 you questions, and we will then go in more  
7 specifically to your role as far as collection and  
8 production of documents and what you did to prepare  
9 yourself in that capacity.

10 But first of all, could you please tell me when  
11 you first started with Lorillard.

12 A. August of 1971.

13 Q. And what was your first position with  
14 Lorillard?

15 A. Title was clerk typist, secretarial.

16 Q. Were you a clerk typist to any specific person?

17 A. Yes, I was working for the research  
18 administrator.

19 Q. Who was?

20 A. Garry Roberson.

21 Q. At that time did you have the last name of  
22 Jessup?

23 A. No, I did not.

24 Q. What was your last name at that time?

25 A. Hardin, H-a-r-d-i-n.

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1 Q. So when I see Ms. Hardin referred to in some of  
2 the documents, that is you; is that correct?

3 A. Yes.

4 Q. Would you briefly outline your subsequent  
5 history at Lorillard for me.

6 A. Certainly. In 1975 I became secretary to the  
7 vice president of R&D.

8 Q. Who was?

9 A. Dr. Fred Schultz.

10 Q. And what were your responsibilities in that  
11 capacity?

12 A. Basic clerical/administrative responsibilities,  
13 filing, typing, so forth.

14 Q. Certainly. When was your next job title  
15 change?

16 A. In 1978.

17 Q. And what did you become at that point?

18 A. I was still secretary, and I reported to the  
19 vice president of operations and research.

20 Q. Who was?

21 A. Dr. Alex Spears.

22 Q. How long did you continue in that capacity?

23 A. Until October of 1986.

24 Q. In October of 1986, what did your title change  
25 to?

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1 A. Became research administrator.

2 Q. What were your duties and responsibilities in  
3 that role?

4 A. Supervise and direct the department of --  
5 supporting R&D support staff as well as management of  
6 the Lorillard records center.

7 Q. Where is the Lorillard records center?

8 A. In Greensboro.

9 Q. And throughout your career, have you been at  
10 Greensboro?

11 A. Yes, I have.

12 Q. Have you had a job title change since that time?

13 A. Yes, very recently, in November of 1996, became  
14 director of human resource administration.

15 Q. And who do you report to in that job?

16 A. William Crump, vice president of human  
17 resources.

18 Q. What are your duties and responsibilities as  
19 director of human resources?

20 A. Basically I retain the research administration  
21 department.

22 Q. What do you mean by "retain"?

23 A. Well I've expanded my role, I would assume you  
24 would say, and also I have gained the employment  
25 function at Lorillard, the hiring function.

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1 Q. Okay. So you're the person most responsible for  
2 the hiring and, I assume, termination of individuals  
3 at Lorillard?

4 A. Yes.

5 Q. Who do you report to at the current time?

6 A. Mr. William Crump, vice president of human  
7 resources.

8 Q. So in essence your new job is a job in which  
9 you've retained all your responsibilities as the  
10 research administrator, but you've also gained a few  
11 additional responsibilities; is that correct?

12 A. With some slight differences.

13 Q. Okay.

14 A. The audiovisual department that I previously had  
15 under my control is now in a different department.

16 Q. What department is it now in?

17 A. It is now in communications department.

18 Q. Anything else?

19 A. That's basic -- the basic change.

20 Q. Okay. Ms. Jessup, what did you do in  
21 preparation for your deposition here today?

22 A. Basically -- well first of all, I've been  
23 broadly involved with this process throughout its --  
24 out its tenure, and I have spoken with the other  
25 document custodians.

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1 Q. Okay. Let's just stop right there and let's  
2 just do a couple of things. First of all, when you  
3 say "with this process," what do you mean by "this  
4 process"?

5 A. The process at hand, the collection and  
6 production of documents. I've been heavily involved  
7 with that since --

8 Q. How long -- I'm sorry.

9 A. -- it's been noticed.

10 Q. How long has that process been going on at  
11 Lorillard?

12 A. Current collection?

13 Q. Collection of documents for litigation  
14 generally.

15 A. 1984. And I think there were some cases prior  
16 to that, but as far as a collection, major collection  
17 process.

18 Q. Okay. I want to come back to that subject, but  
19 I also want to touch upon something you just  
20 mentioned. You said you talked to the other document  
21 custodians. Could you give me the names of those  
22 individuals.

23 A. Yes, Richard C. Young. Excuse me.

24 Q. And where is Mr. Young located?

25 A. In the manufacturing plant in Greensboro.

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1 Q. And what department is he in?

2 A. He is in the finance department.

3 Q. Was he in charge of all document collection at  
4 the manufacturing plant in Greensboro?

5 MR. MONICA: Object to the form of the  
6 question.

7 Q. What was his role in the manufacturing plant at  
8 Greensboro such that you talked to him in preparation  
9 for this deposition?

10 A. Basically Mr. Young has been named a document  
11 custodian.

12 Q. What does that mean?

13 A. And that would be he would be working with  
14 individuals in the manufacturing area relative to  
15 preservation of documents, retention of documents,  
16 et cetera.

17 Q. Is that a formal position within the company?  
18 You used the word "document custodian."

19 A. Uh-huh.

20 Q. You said he'd been named a document custodian.

21 A. Uh-huh.

22 Q. What's the significance of being named a  
23 document custodian at Lorillard? Is it a specific  
24 title?

25 A. It's -- it's not part of my job title, but it's

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- 1 a role I play.
- 2 Q. Okay.
- 3 A. And basically he and I play that role in
- 4 different areas or different arenas, --
- 5 Q. Okay.
- 6 A. -- different departments, you might say.
- 7 Q. And he's responsible for which departments?
- 8 A. The manufacturing departments in Danville.
- 9 Q. Where are all the manufacturing departments
- 10 physically located?
- 11 A. Under the -- the plant, in the plant location.
- 12 Q. And the plant you're referring to is the plant
- 13 at Greensboro, North Carolina?
- 14 A. That is correct.
- 15 Q. And what's Danville?
- 16 A. It's -- it has been a leaf processing facility.
- 17 Q. What type of leaf processing is done there?
- 18 A. Basically the tobaccos are brought in. They're
- 19 threshed, stemmed, et cetera, and then held.
- 20 Q. Okay. Is there any reconstituted sheet
- 21 manufactured at either of those two facilities?
- 22 A. There has been in the past.
- 23 Q. Okay. Which one, which facility?
- 24 A. Danville.
- 25 Q. When did that stop?

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- 1 A. I'm not certain, I'm sorry.
- 2 Q. How about expanded tobacco? Is expanded tobacco
- 3 made at either one of the two places?
- 4 A. In the Greensboro branch.
- 5 Q. Is all of the leaf that goes through the leaf
- 6 processing facility used for cigarette production?
- 7 A. Yes.
- 8 Q. And are cigarettes produced at the Greensboro
- 9 plant?
- 10 A. Yes.
- 11 Q. Okay. What other document custodians have you
- 12 talked to?
- 13 A. Neil Twomey.
- 14 Q. And that's T-w-o-m-e-y?
- 15 A. That is correct.
- 16 Q. Where is he located?
- 17 A. Lorillard, New York.
- 18 Q. What department is he with there?
- 19 A. He's in the finance area in the New York
- 20 office.
- 21 Q. What areas is he responsible for as a document
- 22 custodian?
- 23 A. The entire New York corporate offices of
- 24 Lorillard.
- 25 Q. And where are those offices located?

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- 1 A. One Park Avenue, New York, New York.
- 2 Q. Is there an overlap between the Loews corporate  
3 offices and the Lorillard corporate offices? Do they  
4 share space?
- 5 A. They're in the same building. Some of the areas  
6 are in the same building.
- 7 Q. Are they physically separated?
- 8 A. Yes, sir, they're on different floors.
- 9 Q. Are there any departments that Loews and  
10 Lorillard share? Do you understand what I mean by  
11 that?
- 12 A. Basically there are -- like shared services  
13 or --
- 14 Q. Right.
- 15 A. -- provided to?
- 16 Q. Right.
- 17 A. In point of fact, one of those is the human  
18 resource function, which is just now being split  
19 off. Lorillard's forming its own human resources  
20 department.
- 21 Q. So in your capacity as a human resource  
22 director, are you working primarily for Lorillard or  
23 do you also have duties concerning Loews?
- 24 A. I have no duties concerning Loews.
- 25 Q. Okay. So your particular function is individual

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1 to Lorillard?

2 A. Yes.

3 Q. But there's part of your department's functions  
4 that are shared by Loews?

5 A. Let me --

6 MR. MONICA: I'm going to object. This is  
7 beyond the scope of the --

8 MR. O'FALLON: Well I don't believe it is.

9 MR. MONICA: -- deposition notice.

10 MR. O'FALLON: I don't believe it is beyond  
11 the scope.

12 MR. MONICA: Let me make my --

13 MR. O'FALLON: I'm just trying --

14 MR. MONICA: Let me make my objection.

15 MR. O'FALLON: Objections are to be  
16 "objection," in one word.

17 MR. MONICA: No, this objection is beyond  
18 the scope because you're getting into the corporate  
19 structure or trying to. You've noticed on the  
20 collection and production of documents in this case,  
21 and that's what the -- she's prepared to testify to.  
22 That's what the company's designated her -- her on.

23 You're going beyond the notice and you're  
24 getting into areas she's not prepared on, and she's  
25 not testifying on behalf of the company.

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1 MR. O'FALLON: Well --

2 MR. MONICA: So once you get beyond your  
3 notice, I think you're improperly getting into areas  
4 that are beyond the notice and that she's not  
5 designated on.

6 MR. O'FALLON: So is it --

7 Is it your position that I don't have the right  
8 to ask what departments Lorillard shares with Loews?  
9 Is that your position?

10 MR. MONICA: My position is you're getting  
11 into areas that she's not --

12 MR. O'FALLON: Answer my question, please.

13 MR. MONICA: -- designated --

14 MR. O'FALLON: Would you answer my  
15 question. I'm here to ask about documents  
16 collected --

17 MR. MONICA: Do not interrupt me when I'm  
18 making my objections.

19 MR. O'FALLON: Your objection is to be one  
20 word, "objection."

21 MR. MONICA: You let me finish my  
22 objections and then you can make your objections. My  
23 position is you're getting beyond her notice and she  
24 is not qualified and she is not designated. Now if  
25 you want her to speculate going beyond the notice, I

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1 will tolerate that to a certain instance, to a  
2 certain extent.

3 MR. O'FALLON: Are you finished?

4 MR. MONICA: I am finished.

5 BY MR. O'FALLON:

6 Q. Do you understand in pre --

7 You understand that when you -- when you came  
8 here today, you were to be here today to speak on  
9 behalf of Lorillard; correct?

10 A. I do understand that.

11 Q. And you understand that you were to be here to  
12 speak on behalf of Lorillard concerning collection of  
13 documents from Lorillard; correct?

14 A. Collection and production.

15 Q. Right. It's my understanding that there are  
16 certain departments between Lorillard and Loews where  
17 there are certain functions that are shared. Is that  
18 your testimony?

19 MR. MONICA: I'm going to object to the  
20 form of the question.

21 A. That is my understanding, yes.

22 Q. Okay. Will there be documents in those  
23 departments where there are shared functions that are  
24 Lorillard documents; that is, documents that pertain  
25 to Lorillard's business?

1 A. Yes.

2 Q. And specifically documents that pertain to  
3 Lorillard's tobacco business?

4 A. Yes.

5 Q. One of those departments is the human resource  
6 department; correct?

7 A. That is correct.

8 Q. Okay. What are the other departments in which  
9 there are shared functions?

10 A. Okay. To my -- to my knowledge --

11 MR. MONICA: Again I'm going to object to  
12 the form of the question, as to the use of the term  
13 "shared functions."

14 Q. It is your testimony that there are shared  
15 functions between departments between Lorillard's and  
16 Loews; correct?

17 A. At current, yes.

18 Q. Yes. And when did that start?

19 A. It would be my surmise and I cannot give you an  
20 accurate date on that, but since Loews purchased us,  
21 which was I think 1969, 1970, in that area.

22 Q. Okay. Let's go back to the New York office and  
23 specifically let's go back to Mr. Twomey. What  
24 departments exist at the New York offices of  
25 Lorillard?

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- 1 A. Okay. Finance department, legal, marketing,  
2 research, advertising/brand management, the executive  
3 offices. Did I say legal?
- 4 Q. You did.
- 5 A. Okay.
- 6 Q. I've got finance, legal, marketing, research,  
7 advertising/brand management and executive. Is that  
8 your representation?
- 9 A. Yes.
- 10 Q. Okay. Are there any departments at Loews that  
11 would contain Lorillard Tobacco documents, the Loews  
12 offices in New York?
- 13 A. There would be information. For example, the  
14 tax department would have certainly information,  
15 payroll.
- 16 Q. Those are basically administrative departments;  
17 correct?
- 18 A. Right. The human resources, as we discussed,  
19 would have information on Lorillard employees.
- 20 Q. Any other department at Loews?
- 21 A. I'm trying to -- trying to think because I  
22 wasn't -- had not thought this through.
- 23 Q. Let me just ask you this question: The legal  
24 department, is that a department that's solely a  
25 Lorillard department?

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- 1 A. Yes.
- 2 Q. And has that been true through the time you've
- 3 been there?
- 4 A. From 1971 forward, yes, to my knowledge.
- 5 Q. What other document custodians did you speak
- 6 to?
- 7 A. I spoke to Mr. Twomey and Mr. Young.
- 8 Q. Are Mr. Twomey, Mr. Young and yourself the only
- 9 document custodians at Lorillard Tobacco?
- 10 A. What has occurred is Mr. Young has -- Allen
- 11 Preddy has taken over the responsibilities for
- 12 Mr. Young.
- 13 Q. Could you spell that name.
- 14 A. P-r-e-d-d-y.
- 15 Q. And when did that occur? When did Mr. Preddy
- 16 take over the functions for Mr. Young?
- 17 A. I believe it was somewhere in the midyear last
- 18 year.
- 19 Q. Have you spoken to Mr. Preddy?
- 20 A. No, sir.
- 21 Q. But he would only be a document custodian
- 22 starting in about the summer of '96 approximately?
- 23 A. Approximately, yes. And Kathy Sparrow.
- 24 Q. Do you want to spell that name, too.
- 25 A. Yes. It's K-a-t-h-y Sparrow, S-p-a-r-r-o-w.

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- 1 Q. And what's her function?
- 2 A. Her function is she is assuming the duties of
- 3 Mr. Neil Twomey as document cus -- custodian for the
- 4 corporate offices.
- 5 Q. When will that take effect?
- 6 A. She has been -- well actually I should have said
- 7 assumed, and that was also somewhere midyear last
- 8 year.
- 9 Q. Have you spoken with Ms. Sparrow prior to this
- 10 deposition?
- 11 A. Not in preparation for this deposition, no.
- 12 Q. Do you have specific dealings with her on an
- 13 ongoing basis?
- 14 A. Not -- not really, not any formalized, no.
- 15 Q. Do those of you who are designated document
- 16 custodians, do you have specific retention --
- 17 document retention responsibilities that you
- 18 undertake at Lorillard? Let me --
- 19 A. I'm not sure -- I'm not sure I understand your
- 20 question.
- 21 Q. Sure, and let's just have an understanding too.
- 22 A. Uh-huh.
- 23 Q. If anytime you don't understand my question,
- 24 would you please tell me.
- 25 A. I will.

1 Q. And I will do what I can to try to clarify my  
2 question.

3 A. I will.

4 Q. If you don't ask me, then I'm going to assume  
5 that you do understand my question. Is that okay?

6 A. Absolutely.

7 Q. Okay. As a document custodian, do the three --  
8 As document custodians, do the three of you have  
9 specific responsibility for making sure that  
10 documents are retained?

11 A. Yes.

12 Q. Do you administer a document retention policy?

13 A. Basically, as I see my duty in R&D -- and that  
14 is where I am specifically a document custodian -- as  
15 I see my role, it is to ensure that documents are  
16 preserved for any litigation purposes. I am a  
17 resource for people if they have questions.

18 Q. Does your role go beyond simply litigation?  
19 That is, do you also ensure that documents are  
20 retained for a business purpose, that the appropriate  
21 business records are retained, for instance, in your  
22 department?

23 A. That is correct.

24 Q. And is there a formal retention policy that  
25 Lorillard has in place in order to ensure that its

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1 business records are maintained over time?

2 A. Yes, and I would like to clarify that that  
3 retention is -- is the responsibility of my  
4 department, for business record retention.

5 Q. Okay. And --

6 And specifically is it your responsibility?

7 A. Ultimately.

8 Q. That would indicate that someone reports to you  
9 who has that function initially. Who is that  
10 individual?

11 A. Linda Martin.

12 Q. I've seen her name on the documents I've  
13 reviewed. So what is her official title?

14 A. She is -- excuse me -- manager, R&D  
15 administration.

16 Q. And she reports to you?

17 A. Yes, she does.

18 Q. Does your department have ultimate  
19 responsibility for document retention at the other  
20 branches of Lorillard Tobacco as well?

21 A. We're responsible for stored carton retention.

22 Q. Which means?

23 A. Which means when the record's received in the  
24 Lorillard records center in Greensboro, that we have  
25 custody and control of those records.

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1 Q. Is it also your department that makes the  
2 ultimate determination of whether documents are  
3 retained or destroyed?

4 A. We have a schedule for retention and we have a  
5 well-refined in-place process for destruction of  
6 records.

7 Q. Could you just describe that process briefly for  
8 me?

9 MR. MONICA: Again I'm going to object.  
10 This is beyond the notice. Your notice was on  
11 production and collection. You specifically told us  
12 before that you'll have a separate deposition on  
13 document retention and destruction.

14 MR. O'FALLON: I'm really not after  
15 destruction here nearly as much as I am simply  
16 retention. I'm just trying to find out -- and I'm  
17 not asking if they were destroyed at this time. I'm  
18 just asking who has responsibility for making those  
19 ultimate determinations. What I'm really after here  
20 is what documents were retained so I can then  
21 determine what documents were collected, and I'm just  
22 getting some background information as to her  
23 knowledge for purposes of when we go into what was  
24 collected.

25 MR. MONICA: With that limitation, I

1 will -- go ahead and answer the question.

2 THE WITNESS: Okay. Could you pose the  
3 question again, please.

4 MR. O'FALLON: Why don't we go ahead and  
5 have it read back.

6 (Record read by the court reporter.)

7 A. Okay. We have a schedule for business record  
8 retention and we have a system in place where when  
9 the year date of the destruction of doc -- documents  
10 arises, we prepare paperwork. We send that paperwork  
11 to the department head for sign-off, that they no  
12 longer need this record for business purposes.  
13 Currently it is then signed by the document custodian  
14 relative to any needs that they may have, and it is  
15 then forwarded to Lorillard legal department for  
16 final sign-off.

17 Q. Based on that policy, is it safe to say that the  
18 documents that you keep in permanent storage or that  
19 are stored in your department are documents that has  
20 been decided by Lorillard Tobacco are business  
21 records and necessary for Lorillard's conduct of its  
22 business?

23 MR. MONICA: Object to the form of the  
24 question, calls for a legal conclusion. You may try  
25 to answer it.

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1 A. Okay. That --

2 Q. Let me break it down because it might have been  
3 compound as well, and so let me just go back and talk  
4 about this again.

5 It's my understanding that a determination is  
6 made before a record is retained that it is in fact a  
7 record that Lorillard needs for its business;  
8 correct?

9 A. I'm sorry.

10 Q. Okay.

11 A. I'm -- I'm really confused. I'm sorry.

12 Q. Sure. It's my understanding that --

13 A. Uh-huh.

14 Q. -- before Lorillard decides to formally retain a  
15 document and place it in your facility, that someone  
16 makes a determination that this is a record that's  
17 necessary for Lorillard's business; is that  
18 accurate?

19 A. That would be the department head relative to  
20 their business needs or that they might need to go  
21 back to these records if that's what you're asking.

22 Q. Well that is what I'm asking.

23 A. Uh-huh.

24 Q. And unfortunately you haven't quite asked my  
25 question. You asked the next question that I'd be

1 asking, but my first question is: Someone at  
2 Lorillard Tobacco has made a decision that the  
3 documents retained in your department are in fact  
4 necessary for Lorillard's business; correct?

5 A. Yes.

6 Q. And the people who make that decision are in  
7 fact the department managers as you've just  
8 testified; correct?

9 A. Department managers loosely, supervisors. It  
10 could even be the individual.

11 Q. Individuals have the authority within Lorillard  
12 to say that, "This particular document that I've kept  
13 is a document that I think is necessary to performing  
14 my functions here as part of Lorillard's business";  
15 correct?

16 A. Might be helpful in the future, yes.

17 Q. So the documents that are retained in your  
18 facility are documents that are kept in the ordinary  
19 course of business; correct?

20 MR. MONICA: Object to the form of the  
21 question, calls for a legal conclusion.

22 A. I would say yes.

23 Q. Okay. Did you review any documents in  
24 preparation for today's deposition?

25 A. I reviewed the court orders, notice of

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1 deposition, those types of things.

2 Q. Did you review any of the documents that I had  
3 predesignated for use at this deposition?

4 A. Yes, I did.

5 Q. So you are familiar with those documents?

6 A. Yes, sir.

7 Q. And I would suspect you were probably familiar  
8 with those before you reviewed them today; correct?

9 A. By and large, yes.

10 Q. Because most of the documents I designated were  
11 either organizational charts, which I assume you were  
12 familiar with -- correct?

13 A. Some of them I was.

14 Q. Or they were documents that actually came out of  
15 your department, correct, such as the various  
16 document retention-type documents that actually  
17 listed physical files that are kept in your  
18 department; correct?

19 A. Yes.

20 Q. We'll be getting to those documents as we go  
21 through the deposition. In preparation for the  
22 deposition, did you have any discussions with any  
23 attorneys?

24 A. Yes.

25 Q. Who did you have discussions with? And

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- 1 understand when I ask you --
- 2 A. Uh-huh.
- 3 Q. -- who you had discussions with, please do not
- 4 tell me what they told you. I don't want to know
- 5 your discussions with them. I simply want to know
- 6 who you met with.
- 7 A. Okay. John Monica.
- 8 Q. Anyone else?
- 9 A. David Martin.
- 10 Q. Anyone else?
- 11 A. Howard Ralston, Claire McCurdy.
- 12 Q. Claire McCurdy?
- 13 A. McCurdy.
- 14 Q. Who is Claire with?
- 15 A. Shook Hardy.
- 16 Q. You have to forgive me. I don't know all the
- 17 lawyers in the litigation. Anybody else?
- 18 A. That's it.
- 19 Q. Is there any in-house attorney who has been
- 20 primarily responsible for the document production?
- 21 A. I should have mentioned Jack Reilly, Lorillard
- 22 counsel.
- 23 Q. Is Jack Reilly the in-house attorney who's been
- 24 most responsible for document collection and
- 25 production?

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1 A. Yes.

2 MR. O'FALLON: Could we go off the record  
3 for a second.

4 THE REPORTER: Off the record, please.

5 (Discussion off the record.)

6 BY MR. O'FALLON:

7 Q. Other than the individuals you've identified,  
8 are there other individuals who have been involved in  
9 a -- what I'll call a supervisory role in the  
10 document collection and production for Lorillard? I  
11 say "supervisory role" because I assume that, to some  
12 extent, all of your employees are involved in the  
13 collection process. Is that accurate?

14 A. A great many.

15 Q. But were there any other people other than the  
16 ones that you've mentioned here who had a more,  
17 quote, unquote, "supervisory role"?

18 A. Not to my knowledge.

19 Q. So the people that we've now talked about are  
20 the people who had primary responsibility for the  
21 collection and production of documents at Lorillard;  
22 correct?

23 A. Yes.

24 Q. Have you ever had your --

25 MR. MONICA: Excuse me. Clarification:

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1 You're talking about the Lorillard people?

2 MR. O'FALLON: I'm talking about the  
3 Lorillard people, but you do raise a good point.

4 Q. Why don't you tell me any of the law firms,  
5 outside counsel, who have also been involved in the  
6 document collection and production process, and let's  
7 just start first with the law firm names.

8 A. Okay. Shook Hardy Bacon.

9 Q. Okay.

10 A. Gordon Arata. Gordon Arata.

11 Q. Could you spell the last name.

12 A. I'm not cer -- certain I know how.

13 Q. Is that an individual or a law firm?

14 A. It's a law firm.

15 Q. And where is that law firm from?

16 A. New Orleans, Louisiana.

17 Q. Is that law firm local counsel in the Castano  
18 case?

19 A. Yes.

20 Doherty Rumble Butler, Grey Carey.

21 Q. Carey, C-a --

22 A. R-e-y.

23 Q. And where is that law firm from?

24 A. That's San Diego.

25 Q. What case is that law firm involved in?

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1 A. I'm sorry, I don't know.

2 MR. O'FALLON: Is Lorillard a defendant in  
3 Mangini? They aren't, are they?

4 Q. What other law firms?

5 A. Thompson Coburn.

6 Q. Where is that law firm from?

7 A. I think that's St. Louis.

8 And Burr Forman.

9 Q. And where is that law firm located?

10 A. I believe it's Alabama. I'm not sure.

11 Q. Any other law firms?

12 A. That's as far as I know.

13 Q. Any North Carolina counsel?

14 A. No, sir.

15 Q. Is there any one of those law firms that had  
16 primary responsibility for the collection and  
17 production of documents?

18 A. I would have to say that Shook Hardy has been  
19 the contact I've had more contact with than the other  
20 firms.

21 Q. Has the Shook Hardy law firm undertaken a  
22 coordinating role in the document collection and  
23 production?

24 A. I would say that's a fair statement.

25 Q. And who's the individual at Hook -- Shook Hardy

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1 that heads up that document collection and production  
2 process?

3 A. My primary contact was Claire McCurdy.

4 Q. Although it's slightly out of order, have you  
5 had your deposition taken previously?

6 A. No.

7 Q. What has been the law firm of Doherty Rumble &  
8 But -- But -- strike that.

9 What has been the role of Doherty Rumble &  
10 Butler in the collection and production of  
11 documents?

12 A. Basically I met David Martin early on, and the  
13 insurance that we were preserving documents. They --

14 Q. Before you go on, let me just state this because  
15 I never want to get into this issue.

16 A. Uh-huh.

17 Q. Anytime I ask you for what a lawyer has done --

18 A. Uh-huh.

19 Q. -- or who a lawyer is --

20 A. Uh-huh.

21 Q. -- just let me state don't give me any opinions  
22 or anything the lawyers actually told you. All I  
23 want is factual information --

24 A. Okay.

25 Q. -- about what factually those individuals did.

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- 1 A. Okay.
- 2 Q. Okay. So just with that, I just --
- 3 A. Thank you.
- 4 Q. -- don't want to wander into the attorney-client
- 5 privilege.
- 6 A. They provided individuals to review documents
- 7 for collection purposes.
- 8 Q. Okay.
- 9 A. And additionally provided individuals to assist
- 10 with responsiveness review in the production of
- 11 documents.
- 12 Q. Did you yourself also participate in the
- 13 responsiveness review?
- 14 A. Personally?
- 15 Q. Yes.
- 16 A. No, sir.
- 17 Q. Did any non-attorney Lorillard employees
- 18 participate in the responsiveness review?
- 19 A. No. That -- of course the attorneys were
- 20 interfacing with us quite often, asking us questions,
- 21 making clarifications and so forth, but other than
- 22 that, no, not for strict responsiveness review.
- 23 Q. And just so we're clear on that particular
- 24 point, did any Lorillard employee, non-attorney
- 25 Lorillard employee, participate or assist in making

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1 an actual decision as to whether a document should be  
2 produced?

3 A. Here again, if -- not making the final decision,  
4 no. If there were input needed to be gathered, I'm  
5 certain it would have been obtained, any  
6 questioning.

7 Q. So in essence, the non-attorney Lorillard  
8 employees would provide factual input to the  
9 attorneys, but they themselves did not make the  
10 decisions; correct?

11 A. That is correct.

12 Q. Before I get into what was actually collected  
13 and how that collection was done, I would just like  
14 to have a relatively decent understanding of what  
15 Lorillard physically looked like and where documents  
16 were located over time, which is why I copied the  
17 various organizational charts, and with your  
18 permission what I'd like to do is mark some of these  
19 organizational charts and -- and kind of walk you  
20 through them to the extent that these help you recall  
21 and help you testify as to where physically documents  
22 have been located over time.

23 Before I do that, though, when you were looking  
24 for documents, what was your time scope? Did you  
25 have any time parameters?

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1 A. I'm sorry, could you --

2 Q. Certainly.

3 A. -- rephrase that for me.

4 Q. Certainly. Were there any documents that were  
5 deemed either too old or too new to be looked for  
6 when you were out collecting documents for the  
7 Minnesota production?

8 A. No, sir.

9 Q. Okay. So you were looking over the entire range  
10 of documents that were available in Lorillard  
11 regardless of the time frame of those documents;  
12 correct?

13 A. Absolutely.

14 Q. My various exhibits start early and then move up  
15 through, and to -- at some point we may get to a  
16 point where you feel that we've had enough and I feel  
17 that we've had enough and we don't have to do this.

18 A. Okay.

19 Q. But I thought that we would use these documents  
20 at least initially to get us started.

21 MR. O'FALLON: I would first -- I would  
22 like the court reporter to mark a document that's  
23 Bates stamp numbered 00065875 through 00065881. It's  
24 dated September 15th, 1965.

25 (Jessup Plaintiffs' Exhibit 1001 was marked

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1                   for identification.)

2   BY MR. O'FALLON:

3   Q.   I would hand you Exhibit 1001 and ask you if you  
4   recognize that document.

5   A.   Yes, I do.

6   Q.   Okay.  What is this document?

7   A.   Apparently this was an organization structure  
8   that was being proposed in the research organization  
9   in 1965.  I am not -- I do not have personal  
10   knowledge of this document or why it was generated.  
11   I want to clarify that.

12   Q.   Sure.

13   A.   But from the -- from looking at it, that would  
14   be my assumption.

15   Q.   Okay.  And I'd just like you to look at the --  
16   the last two pages because it seems to be a -- a  
17   physical layout or perhaps a proposed physical layout  
18   of various parts of -- of Lorillard's facilities.  Do  
19   you know where these facilities that are detailed on  
20   Bates number 00065880 and 81 were located?  Were  
21   these New York offices?  Were these Greensboro  
22   offices?

23   A.   I can certainly speculate here, but I -- I don't  
24   want to do that.

25   Q.   Okay.

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- 1 A. My -- my belief --
- 2 Q. What would be your best --
- 3 Understanding that it -- that it is
- 4 speculation --
- 5 A. Uh-huh.
- 6 Q. -- based on what you know and what you know
- 7 about Lorillard historically, what's your best guess
- 8 as to where these offices were located?
- 9 A. This would have been located, I believe, in our
- 10 plant facility.
- 11 Q. In Greensboro?
- 12 A. In Greensboro. I base this on my company
- 13 knowledge that the research center was not yet
- 14 built --
- 15 Q. Okay.
- 16 A. -- and that I do know research was located in
- 17 our manufacturing plant.
- 18 Q. To the best that you can recall -- and again I'm
- 19 not asking you to be a complete company historian
- 20 here because I understand you didn't start until
- 21 1971, but as of this time period, 1965, where did
- 22 Lorillard Tobacco have facilities?
- 23 A. Danville; New York; Greensboro, North Carolina;
- 24 Louisville, Kentucky; and possibly Landcaster,
- 25 Pennsylvania; and possibly Lexington, Kentucky.

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1 Q. Let's just take each of those in order. Is the  
2 Danville facility the Danville facility we've talked  
3 about here today already?

4 A. Right.

5 Q. That's a leaf processing plant?

6 A. Right.

7 Q. And has there been from in or about 1965 up till  
8 the present a leaf processing plant at Danville?

9 A. Yes, and I need to -- to point something else  
10 out to you. We are no longer doing the actual leaf  
11 processing in Danville. We're doing storage.

12 Q. Okay. So what's going on now in Danville is  
13 simply leaf storage?

14 A. Yes.

15 Q. When did the leaf processing function end at the  
16 Danville facility, give or take?

17 A. It's the last three to five years, I think. I'm  
18 really not prepared to answer that in a highly  
19 accurate fashion.

20 Q. Let's bring it back to the -- the issue we have  
21 here today. At the time the Danville facility was  
22 closed or the time that the leaf processing was  
23 stopped at Danville, were the leaf processing  
24 documents then transferred someplace, or do the  
25 documents still exist that were there at the Danville

1 facility?

2 A. To my knowledge, they have not been  
3 transferred.

4 Q. Okay. So even though the function ended, the  
5 documents basically retained at the Danville  
6 facility?

7 A. That is my -- my best understanding.

8 Q. The New York offices, were the New York offices  
9 in 1965 substantially similar to the New York offices  
10 that are there today?

11 A. I couldn't speak to that. That was --

12 Q. Let's move it up just a little bit to 1971 when  
13 you started.

14 A. Uh-huh.

15 Q. Were the functions in New York at that time, in  
16 1971, approximately the functions that are in the New  
17 York offices today?

18 A. To my present knowledge, you know, to my best  
19 belief, similar.

20 Q. To your best belief, yes?

21 A. Yes.

22 Q. Greensboro is what we believe this particular  
23 organizational chart relates to. What facilities  
24 were at Greensboro, to the best of your knowledge, in  
25 the 1965-to-1971 time frame or were there when you

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1 started?

2 A. The Greensboro manufacturing plant and the  
3 Lorillard Research Center. And that would have been  
4 in 1971, the research center was there.

5 Q. Okay. Was it your -- had the research center  
6 recently moved to that -- strike. Let's go back and  
7 just make sure we understand.

8 The manufacturing plant and the research center  
9 are separate facilities?

10 A. They are.

11 Q. You started at the research center; correct?

12 A. Yes.

13 Q. How long had the research center been there when  
14 you started?

15 A. I believe it was built in 1969.

16 Q. Okay. Prior to 1969, it's your understanding --  
17 and again I understand this is a little out of your  
18 time area, but it's your understanding that the  
19 research and development's function was over with the  
20 Greensboro manufacturing plant?

21 A. Yes, sir.

22 Q. And it may well be that the documents we've had  
23 marked as Jessup Exhibit 1001 shows exactly where  
24 that specific function was at; correct?

25 A. Yes.

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- 1 Q. And it's your understanding that when it was  
2 moved, that the documents that were part of the  
3 research and development were moved with it;  
4 correct?
- 5 A. That would be my understanding.
- 6 Q. What was in Louisville?
- 7 A. Manufacturing plant.
- 8 Q. Is that a cigarette manufacturing plant?
- 9 A. Yes.
- 10 Q. Anything else?
- 11 A. Little cigars, chewing tobacco.
- 12 Q. Okay. You mentioned a Lancaster, Pennsylvania,  
13 facility.
- 14 A. Yes.
- 15 Q. What was that?
- 16 A. A leaf facility, I believe leaf storage.
- 17 Q. Is that facility still with you today?
- 18 A. No.
- 19 Q. Do you know when that facility ended?
- 20 A. I'm sorry, I don't.
- 21 Q. Was it there when you started in 1971?
- 22 A. At some point during my early career, I heard of  
23 it, but I do not know that it was there in 1971.
- 24 Q. And you said possibly Lexington, Kentucky. What  
25 was in Lexington, Kentucky?

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1 A. Here again that was a leaf-type operation.

2 Q. Is that still in operation today?

3 A. No.

4 Q. Do you believe it was in operation when you  
5 started in 1971?

6 A. Here again at some point early in my career I  
7 heard of it. I could not state it was there in  
8 1971.

9 Q. So you heard of it, but it's your understanding  
10 at some point it went away; right?

11 A. Yes.

12 MR. O'FALLON: I'd next like to mark for  
13 the record a document Bates stamp numbered 01425800  
14 through 801.

15 (Jessup Plaintiffs' Exhibit 1002 was marked  
16 for identification.)

17 BY MR. O'FALLON:

18 Q. Would you take a look at Exhibit 1002, please,  
19 and tell me if you recognize that.

20 A. I've not specifically seen this document  
21 previously.

22 Q. It appears to be an organizational chart for the  
23 advertising department.

24 A. Yes.

25 Q. My question on this is really fairly basic. Do

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1 you happen to know -- strike that.

2 Where is the advertising department located?

3 A. Lorillard, New York, corporate offices.

4 Q. To the best of your knowledge, has it been

5 located at Lorillard, New York, during the time

6 period that you've been at the company?

7 A. To the best of my knowledge, yes.

8 MR. O'FALLON: I'd next like to have marked  
9 an exhibit Bates stamp numbered 00000208.

10 (Jessup Plaintiffs' Exhibit 1003 was marked  
11 for identification.)

12 BY MR. O'FALLON:

13 Q. Exhibit 1003 purports to be an advertising and  
14 brand management organizational chart, and I just  
15 have a real quick question.

16 Is the brand management also in New York?

17 A. Yes.

18 Q. And has it been during the time you've been  
19 there?

20 A. Yes.

21 MR. O'FALLON: Fortunately I'm jettisoning  
22 exhibits. I'd next have marked a document Bates  
23 stamp numbered 00000016.

24 (Jessup Plaintiffs' Exhibit 1004 was marked  
25 for identification.)

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1 BY MR. O'FALLON:

2 Q. I've marked this exhibit because it purports to

3 be a sales field chart, and I'd specifically like to

4 refer you to field 11. It says "FIELD 11,

5 MINNEAPOLIS FIELD" MANAGE -- "MANAGER, T. Achey"; is

6 that right?

7 A. Excuse me, I'm still finding it. Okay.

8 Field -- okay.

9 Q. Is it your understanding that in 1974 Lorillard

10 had various field sales offices?

11 A. That would be my basic understanding, yes.

12 Q. Okay. And was one of those field sales offices

13 in Minneapolis?

14 A. I would not have personal knowledge. According

15 to this chart, it is.

16 Q. As you sit here today, do you know whether there

17 is still a Minneapolis field office?

18 A. Yes, there is.

19 Q. Okay. And was that field office one of the

20 locations at which you searched for documents?

21 A. I didn't personally, but yes, the company did.

22 Q. Right, and --

23 A. Absolutely.

24 Q. -- again you're here as a company

25 representative --

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1 A. Uh-huh.

2 Q. -- and so I know it's odd, when I ask you a  
3 question, I'm actually asking for the entire  
4 Lorillard Tobacco Company knowledge and -- and you're  
5 the representative for the time being, so --

6 A. Yes.

7 Q. But it is your understanding that Lorillard did  
8 search that field office?

9 A. Yes.

10 Q. Is there a regional sales office that oversees  
11 the Minneapolis district office?

12 A. Yes.

13 Q. Is that the Chicago office?

14 A. I believe that is the Naperville, Illinois,  
15 office. Naperville, I believe, is area three of the  
16 field sales organization.

17 Q. I've actually got another one of these charts  
18 and I -- I'm going to have to dig through here for a  
19 second to get it because that's one thing I did want  
20 to go through with you, because in one chart that I  
21 saw Minneapolis disappeared and then it re --  
22 reappeared, and I don't -- I don't know that it  
23 actually did. I think that it may have just been the  
24 way the charts were set up.

25 Is it your understanding that from approximately

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1 the time you started, 1971, to the present there has  
2 been a Minnesota -- Minnesota field office?

3 A. I would not have personal knowledge. In 1971 I  
4 was not familiar in my clerical role.

5 Q. Based on this chart, it's your understanding  
6 there was one in 1974?

7 A. Yes, that's --

8 Q. Okay. What is your own personal knowledge about  
9 how long there's been a Minnesota field office?

10 A. I would not have been personally involved with  
11 that until very recently.

12 Q. Okay. And do you have any understanding based  
13 on this whole production process how long that field  
14 office has been in existence?

15 A. No, I don't.

16 MR. O'FALLON: We'd like to take a  
17 ten-minute break.

18 THE REPORTER: Off the record, please.

19 (Recess taken.)

20 (Jessup Plaintiffs' Exhibits 1005 through  
21 1009 were marked for identification.)

22 BY MR. O'FALLON:

23 Q. Ms. Jessup, I've had marked for the record four  
24 documents. The first one has been marked Jessup  
25 Plaintiffs' Exhibit 1005; it's Bates stamp numbered

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1 00000377. The second one is marked Jessup  
2 Plaintiffs' Exhibit 1006; it's Bates stamp numbered  
3 87210718 to 720. The third one is Plaintiffs' Jessup  
4 Exhibit 1007; it's Bates stamp numbered 85310104  
5 through 184. And the next one is Plaintiffs' --  
6 Jessup Plaintiffs' Exhibit 1008, and it's Bates stamp  
7 numbered 87759500 through 54 -- 534.

8 A. Okay.

9 MR. MONICA: Mr. O'Fallon, just a point of  
10 order here: I believe what we've agreed to and what  
11 the most recent court order provides is that we refer  
12 to these plaintiffs' exhibit number so-and-so, not a  
13 specific deposition exhibit.

14 MR. O'FALLON: That would be fine with me.

15 Q. Let's turn to Plaintiffs' Exhibit 1005.

16 A. Okay.

17 Q. This is identified as a table of organization,  
18 the marketing field sales, and I'm really following  
19 up on my last line of questioning which regarded your  
20 field sales offices. Is it your understanding that  
21 this sets out the various field sales offices?

22 A. Based on the information on the chart, yes.

23 Q. Okay. And just so we're clear, I know this is  
24 an organizational chart. The director of sales would  
25 be in which office?

1 A. The director of sales I believe would be located  
2 at corporate office.

3 Q. In New York?

4 A. In New York.

5 Q. Okay. And the rest of these directors of sales,  
6 such as for the Northeastern states and the  
7 Southeastern states, the Midwest states, the Central  
8 states and the Western states, are those also located  
9 at the New York office or are there separate field  
10 offices in which those individuals are located?

11 A. I believe that they would also be located at  
12 corporate.

13 Q. Okay. And then when we get down to what are  
14 really the regional sales offices or sales managers,  
15 are those individuals located in regional offices  
16 throughout the country?

17 A. I believe that to be correct, yes.

18 Q. Okay. And as part of the document collection  
19 process, were all of those offices looked at for  
20 relevant documents?

21 A. When you say "all," do you mean every single --

22 Q. Every single one.

23 A. In the whole country?

24 Q. Yes, and I'm not now talking specifically for  
25 the Minnesota case since we've also got Washington

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1 here and it's been cross-noticed and it's my  
2 understanding, too, that you kind of have a document  
3 collection process that's independent of specific  
4 pieces of litigation. Through your document  
5 collection process, are all of those offices looked  
6 at?

7 A. They have not been to date.

8 Q. Okay. Which ones have specifically been looked  
9 at?

10 A. I know that everything that applies to the  
11 Minnesota case have been reviewed, collected,  
12 et cetera.

13 Q. Okay.

14 A. Other than that, sir, I don't have knowledge  
15 that any other field sales office has been. I mean,  
16 I simply have no knowledge.

17 Q. And who would be the individual who would know  
18 that?

19 A. Basically at this point in time I believe that  
20 would be outside counsel.

21 Q. So that's not a collection process -- strike  
22 that.

23 That's not a collection function that was  
24 performed by Lorillard employees; correct?

25 A. No.

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1 Q. Okay. So the field offices, to the extent  
2 they've been reviewed, they haven't been reviewed by  
3 Lorillard employees; correct?

4 A. No, but here again I would like to -- to clarify  
5 for you that when these field sales offices have been  
6 collected from, of course the employees are involved  
7 and participate, et cetera. I don't want to leave a  
8 misimpression.

9 Q. No, but I -- I'm just trying to clarify that in  
10 the course of Lorillard's collection of documents --  
11 and again -- let me go back and ask the foundation  
12 question.

13 It was my understanding based on a comment that  
14 you made earlier in this deposition --

15 A. Uh-huh.

16 Q. -- that Lorillard has an ongoing collection  
17 process of documents; is that true?

18 A. You mean constantly ongoing?

19 Q. Right. You talked about 1984. What was the  
20 significance of that date?

21 A. Okay. 1984 was the first large collection that  
22 we had of documents for litigation purposes. That  
23 collection was performed. The next collection for  
24 litigation purposes would have been in the time span  
25 '86-'87, so as far as a constant process, we of

1 course are responding or adhering to any, you know,  
2 court orders that come in, but as far as major  
3 collection efforts, that is on the various time  
4 spans.

5 Q. Okay. So it's your understanding that the first  
6 large collection of documents was undertaken in  
7 1984 --

8 A. Yes, sir.

9 Q. -- for litigation purposes; correct?

10 A. Yes.

11 Q. The second major collection was undertaken in  
12 the 1986-'87 time period; correct?

13 A. Yes.

14 Q. When is the next --

15 When was the next collection undertaken?

16 A. 1992.

17 Q. Okay. And then the next collection after that?

18 A. 1994.

19 Q. And then the next collection after that?

20 A. The next collection was 1995-'96.

21 Q. And that's the one we're going to be talking  
22 about here today in -- in specificity; correct?

23 A. Yes.

24 Q. So just to come back to the sales offices, the  
25 sales offices, to the best of your knowledge, were

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1 not included in the 1984 document collection?

2 A. Not to my knowledge.

3 Q. The sales offices, to the best of your

4 knowledge, were not included in the 1986-to-'87

5 document collection?

6 A. No, sir.

7 Q. The sales offices, to the best of your

8 knowledge, were not included in the 1992 document

9 collection?

10 A. That is correct.

11 Q. The sales offices, to the best of your

12 knowledge, were not included in the 1994 document

13 collection?

14 A. That is correct.

15 Q. And the only sales offices, to your knowledge,

16 that was included in the 1995-'96 collection was the

17 sales office in Minnesota?

18 A. Yes, sir.

19 Q. The sales office in Naperville, Illinois, the

20 sales office that it's my understanding that oversees

21 the Minnesota sales office, --

22 A. Right.

23 Q. -- was that office looked at?

24 A. Yes.

25 Q. So in the 1985-'86 time frame, the Minnesota

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1 sales office and the Naperville sales office were  
2 searched for documents?  
3 A. Did you -- what date did you say, sir?  
4 Q. 19 -- I'm sorry, you're right. 1995, 19 --  
5 A. Okay.  
6 Q. Let me go back and do it again. Okay?  
7 A. Okay.  
8 Q. For the 1995-to-1996 document collection, the  
9 Minnesota and Naperville, Illinois, sales offices  
10 were looked at for purposes of document collection?  
11 A. Naperville, Illinois; Minneapolis-St. Paul and  
12 Duluth.  
13 Q. You also have a separate --  
14 A. Yes.  
15 Q. -- office up in Duluth?  
16 A. Yes.  
17 Q. Do you have independent offices, one in  
18 Minneapolis and one in St. Paul?  
19 A. I believe that's one.  
20 Q. That's one office?  
21 A. One office, yes.  
22 Q. And to the best of your knowledge, no other  
23 offices -- none of the other sales offices have been  
24 searched during the 1995-1996 document collection  
25 process?

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1 A. That's my present, yes, recollection.

2 Q. Let's step back from the specific collections  
3 for litigation purposes. What documents have been  
4 retained by those sales offices that would have been  
5 shipped to one of the storage facilities at Lorillard  
6 at Lorillard's request for business purposes as  
7 opposed to litigation purposes?

8 A. At this point, to my knowledge, we have no field  
9 sales information in Greensboro.

10 Q. Is there field sales information retained in any  
11 other facility?

12 A. The -- I guess what I'm trying to -- to  
13 determine here, information related to the activities  
14 of field sales would have been housed in the sales  
15 department, corporate sales department, to the best  
16 of my knowledge.

17 Q. And I assume that the information that would be  
18 housed there would be documentation that either was  
19 sent from that office to the field sales offices or  
20 from the field sales offices to that department;  
21 correct?

22 A. That would be -- would be my --

23 Q. Is there also a formal document retention  
24 program, though, that the sales offices have to go  
25 through in which they on a periodic basis go through

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1 their files and then take specific parts of those  
2 files and box them up and send them back to New York  
3 for retention in the sales department on a  
4 longer-term basis?

5 A. I have not reviewed that recently, so I really  
6 don't feel, you know --

7 Q. If I wanted to find out that information, who  
8 would be the best person for me to ask? Well put it  
9 this way: If you wanted to find out that  
10 information --

11 A. Uh-huh.

12 Q. -- who -- who would you ask?

13 A. Uh-huh. Well let me caveat that for a second  
14 because I do know that we are -- are going to receive  
15 field sales information.

16 Q. Okay. What do you mean by that?

17 A. In the record -- in the stored records center.

18 Q. When?

19 A. It's -- there's a process, and I'm not sure  
20 exactly when.

21 Q. Okay. When was that process started?

22 A. Following this collection.

23 Q. And why was that process started?

24 A. The process was begun because we retain anything  
25 that we've copied for litigation purposes --

- 1 Q. Okay.
- 2 A. -- on a permanent basis.
- 3 Q. So let me just clarify. Do you mean that any of
- 4 the documents that were copied out of the Minnesota,
- 5 Duluth and Naperville office --
- 6 A. Uh-huh.
- 7 Q. -- a separate copy will be made and then sent
- 8 back to you; right?
- 9 A. A separate copy?
- 10 Q. A copy.
- 11 A. We will have the originals.
- 12 Q. Okay. You will have the -- okay.
- 13 So the originals will be sent, so someone will
- 14 go out -- someone has gone out to those offices,
- 15 selected documents and sent them to you?
- 16 A. Someone has gone out to the field sales
- 17 offices. They have reviewed, collected, again
- 18 reviewed for responsiveness and produced as
- 19 appropriate.
- 20 Q. Uh-huh.
- 21 A. And any of those documents that were copied,
- 22 Bates stamped, et cetera, will be sent to the records
- 23 center for preservation, retention --
- 24 Q. Okay.
- 25 A. -- at the appropriate time.

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1 Q. Okay. I think we're getting into an area that I  
2 was kind of hoping to do in order and -- and saving  
3 for a little bit later, but let me just do some  
4 follow-up questions on this for right now because I  
5 just want to understand what you've just testified  
6 to.

7 When attorneys go out to the sales office, for  
8 instance, in Minneapolis-St. Paul, they look through  
9 the files; correct?

10 A. Yes.

11 Q. Do they then designate original documents to be  
12 then moved from those files, or do they take copies  
13 of documents that they deem are necessary to  
14 collect?

15 A. What they do is they -- they designate those  
16 files that copies should be made of. Copies are made  
17 of those files. The originals of the documents are  
18 returned to the field sales offices. The attorneys  
19 retain the copies --

20 Q. Okay.

21 A. -- for litigation purposes.

22 Q. And then what do you receive back at your office  
23 out of that process?

24 A. At the appropriate time, when they are no longer  
25 needed for business reasons, these records, the

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1 originals of those documents would be forwarded to  
2 the Greensboro records center for retention.

3 Q. Oh, okay. Okay.

4 A. Which is the same as with any.

5 Q. Okay. Now I understand, because I was wondering  
6 how that was all going to happen if you were --  
7 because I would assume that you're not taking  
8 original documents that may still be needed.

9 A. No.

10 Q. So --

11 So what will happen is as -- as Minneapolis-St.  
12 Paul in the normal course of Lorillard's business  
13 comes up to a time period for its particular  
14 documents that it requires those documents to either  
15 be disposed of or sent for retention or whatever, the  
16 documents, to the extent those documents have been  
17 copied, been selected by lawyers for copying, that  
18 group of documents will go physically up to your  
19 facility for storage?

20 A. That is correct.

21 Q. Okay. What I was asking about is really outside  
22 the litigation process. I'm asking whether or not  
23 there is a process by which field sales documents  
24 are went through, collected at a certain time and  
25 then sent to some facility for permanent retention

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1 or -- or short-term retention, whatever the policy  
2 may be, back at the New York facility. That's what I  
3 was really asking for, whether there's some Lorillard  
4 function whereby for business purposes, independent  
5 of litigation, --

6 A. Uh-huh.

7 Q. -- where for business purposes field sales  
8 offices have to retain documents and send them back  
9 for storage just like any other department.

10 A. An example, field sales expense accounts --  
11 that's a business record -- are forwarded to New York  
12 office for approval and payment and there is an  
13 account set up in our records center and we do retain  
14 those for business purposes.

15 Q. Okay.

16 A. Is that --

17 Q. Yeah, you're closer to it.

18 A. All right.

19 Q. What I would be more interested in is, for  
20 instance, information that's going to be distributed  
21 from the field sales offices to individual sellers of  
22 cigarettes, promotional materials, things like that.  
23 Is there some process by which those kinds of -- of  
24 materials are saved?

25 A. Basically that -- I know that in New York

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1 corporate offices condition letters or brochures or  
2 promotional items or that kind of thing, they're  
3 retained in New York office, in the corporate  
4 headquarters.

5 Q. And if I were looking for a list of every outlet  
6 that sold Lorillard cigarettes in Minnesota, where  
7 would I find that information?

8 A. That specific document, I'm sorry, I wouldn't  
9 know.

10 Q. I'm not asking for the specific document.

11 A. Uh-huh.

12 Q. I'm really asking for the information. Is that  
13 information that would be kept at a field sales  
14 office or is that information that would be kept at  
15 the New York office or would it be kept at both  
16 places?

17 A. I'm sorry, I don't know.

18 Q. Who would I ask that question of?

19 A. I'm trying to determine the best source. I'm  
20 thinking through the process. In the sales area I  
21 believe that would be Kathy Sparrow.

22 Q. And she's the individual you identified as one  
23 of the document custodians at the current time?

24 A. Yes.

25 Q. Let's move on to the next document, which if

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1 you'll just -- it's Bates stamp numbered 87210718,  
2 and I believe it's 1006, is that right, Exhibit  
3 1006?

4 A. Yes.

5 Q. Is this a document you're familiar with?

6 A. I am familiar with like documents over the  
7 years.

8 Q. Okay. Is this an organizational chart of the  
9 research department?

10 A. Yes.

11 Q. Okay. Are you on here, by the way? I didn't  
12 notice you right off and I just --

13 A. In this time frame, no, I would not have been.

14 Q. Were you working in the research department at  
15 this time period?

16 A. No. I was in manufacturing.

17 Q. Okay. And is this the organizational chart for  
18 the research department that's at the separate  
19 research facility in Greensboro?

20 A. Yes, it is.

21 MR. MONICA: What is the date of this  
22 document?

23 MR. O'FALLON: It says "8/23/79."

24 Q. Next I'd like you to look at the document that's  
25 been Bates -- that's been identified as Exhibit

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1 1007. Do you recognize that document?

2 A. These are very much similar to other documents  
3 like them that I have seen over the years.

4 Q. Okay. I believe this is dated 1986, at least up  
5 on the top it is or it says it's revised in 1986.

6 Now this is a table of organization of the entire  
7 Loews Corporation, and is Lorillard Tobacco included  
8 in this organizational chart, the Lorillard Tobacco  
9 facilities?

10 A. Yes, it is.

11 Q. I just have some individual questions about some  
12 of the departments that I wanted to run through with  
13 you.

14 I'd like you to look at page 122. Do you have  
15 that page?

16 A. I do.

17 Q. This is Lorillard and corporate systems. What  
18 is this department?

19 A. This is a part of our management information  
20 systems department.

21 Q. What do these folks do?

22 A. Computer programming, all computer related.

23 Q. So they're the people who physically take care  
24 of the computers? Is that the purpose of this  
25 department?

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1 A. Yes, and to develop systems for our use, various  
2 uses.

3 Q. Okay. If you'd look at 143, do you have that  
4 document?

5 A. Yes, I do.

6 Q. Would you please look at the sales offices  
7 listed under the Western region. Do you see  
8 Minneapolis there?

9 A. Yes, I do.

10 Q. Do you happen to know where the main Western  
11 sales office is?

12 A. No, sir, I'm sorry, I don't.

13 Q. Okay. Does it appear to you based on this chart  
14 that at some point in time Minneapolis was under the  
15 purview of that Western district?

16 A. It would certainly appear that way.

17 Q. Okay. Do you know whether that Western district  
18 office has been searched for documents?

19 A. Not to my knowledge.

20 Q. Who would I ask to find out whether that Western  
21 district office -- well strike that.

22 It's my understanding it hasn't been searched.

23 Who would I ask to find out where that Western  
24 district's located?

25 MR. MONICA: Object to the form of the

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1 question, misstates the answer.

2 MR. O'FALLON: Well let me ask again.

3 Q. Is it your understanding as a representative of  
4 Lorillard Corporation here today to speak on behalf  
5 of the Lorillard Corporation that the Western  
6 district office has not been searched for documents?

7 A. That would be my understanding.

8 Q. Okay. It's my understanding you don't know  
9 where the Western district office is located.

10 A. I don't.

11 Q. Who would I ask for that information?

12 A. Again I believe Kathy Sparrow.

13 MR. O'FALLON: And, Counsel, I'm not here  
14 to put you on the spot, but you don't happen to know  
15 independently whether that has been looked at, do  
16 you?

17 MR. MONICA: No.

18 MR. O'FALLON: Do you happen to know where  
19 it's at?

20 MR. MONICA: No.

21 MR. O'FALLON: Is Mr. Reilly still around?

22 MR. MONICA: This is -- we're not being  
23 interrogated here. We'll --

24 MR. O'FALLON: But I'm asking the -- I  
25 mean, if I can save some time, otherwise I can ask

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1 this deponent to go back and get the information,  
2 which is fine.

3 MR. MONICA: You know, we want to be  
4 cooperative and -- but we're not here to be  
5 interrogated as counsel, so --

6 MR. O'FALLON: Well that's -- okay, that's  
7 fine. So would the appropriate procedure be that we  
8 have Ms. Jessup try to find that information out?

9 MR. MONICA: Again we'll make a reasonable  
10 effort to provide you with information and your  
11 request. What I would suggest you do is if you have  
12 things that -- arising out of this deposition --

13 MR. O'FALLON: No, I'm not going to do  
14 that. I'm here to get answers to questions that  
15 relate to document collection, and it's certainly  
16 reasonable that I ask whether that -- that -- that  
17 office has been searched for responsive documents  
18 given the fact that it appears at least at some point  
19 in time that office was responsible for Minnesota, so  
20 what I'm going to do is ask Ms. Jessup if she can  
21 take whatever efforts are necessary between today and  
22 tomorrow to find that information out so that we can  
23 have testimony on the record as -- and an answer to  
24 that question, and the purpose of this deposition is  
25 to go ahead and get this information. I don't want

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1 to have to do follow-up discovery when the purpose of  
2 being here is for exactly this -- this purpose.

3 So if you're amenable to that, then that's what  
4 we'll do.

5 MR. MONICA: We will -- we'll take it under  
6 advisement, and I will let you know whether we'll do  
7 that today.

8 MR. O'FALLON: Okay. Because if not, we're  
9 going to end up coming back, and I don't see any  
10 reason to come back for one answer to one question,  
11 but if we have to, I will.

12 BY MR. O'FALLON:

13 Q. As we sit here today -- and again maybe the next  
14 document will give us some more enlightenment on  
15 this -- do you know whether Minneapolis is under the  
16 purview of the Chicago office, of the Midwest region,  
17 or whether it's under the purview of the Western  
18 region?

19 A. The area office in Naperville --

20 Q. Right.

21 A. -- I believe is the -- is the purview.

22 Q. And on what do you base that?

23 A. From just knowledge that I have gained during  
24 the course of this. Now that is the area office,  
25 Naperville.

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1 Q. Okay. What's --

2 What's the distinction you're making?

3 A. Well basically it is area is the top of the  
4 organization currently, then region, then division  
5 and then territory. That's how the field sales  
6 organization is currently broken down.

7 Q. I'm sorry, I --

8 A. And I think we may have a difference here.

9 Q. Okay. So this may be a different organization  
10 than you currently have?

11 A. Yes, and I think that may be some of the  
12 confusion.

13 Q. Okay. Do you happen to know when this  
14 particular organization changed?

15 A. No, sir, I don't.

16 Q. Okay. Based on this -- this document, which  
17 is -- has a revision date handwritten up on the top  
18 of 1/86 but then has a more formal date of June 1985,  
19 it would appear that there was a different  
20 organization in effect at least in this time period,  
21 correct, 1985?

22 MR. MONICA: Different than what?

23 MR. O'FALLON: Different than the current  
24 organization.

25 A. Yes, I think -- if you're asking if our current

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1 today -- today is different --

2 Q. Yes.

3 A. -- I would say yes.

4 Q. Okay. And this appears to be an organization

5 where you have four what I would call -- I'd usually

6 call them, I guess, regional directors, but then I

7 note that under that we have separate regions, so

8 would that be area -- would those be the equivalent

9 of areas back at that time, the -- the distinction

10 you just made on areas?

11 A. I'm sorry, back at what time, sir?

12 Q. I'm sorry, the current time.

13 A. Okay. Would you ask the question again?

14 Q. Yeah.

15 A. I'm confused. I apologize.

16 Q. Let's back up, and let me just ask you to repeat

17 an answer because I didn't write it down.

18 A. Uh-huh.

19 Q. How is sales organized today?

20 A. As I understand the field sales organization,

21 the top of the organization is an area; there are

22 five of those. Then there are regions that report to

23 each area. Then there are divisional offices

24 reporting to the regional offices, and then the

25 territories are the -- it's the -- the territory that

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1 a sales rep, an individual sales rep, is responsible  
2 for.

3 Q. And that's your understanding of today's  
4 organization; correct?

5 A. Yes.

6 Q. So if I were to break that down related  
7 specifically to Minnesota, inside Minnesota we would  
8 have certain individuals responsible for certain  
9 territories in Minnesota?

10 A. Basically what you would have is the area office  
11 would be equivalent, as I understand it, to  
12 Naperville, Illinois.

13 Q. Okay.

14 A. Then you would have regional offices in  
15 Minneapolis-St. Paul, just one office.

16 Q. And Duluth; right?

17 A. Duluth.

18 Q. Okay. And those are physical offices; right?

19 A. That is my understanding.

20 Q. And then you also have physical divisional  
21 offices?

22 A. I believe the divisional office is also house --  
23 you can have -- the way it's organized, you can house  
24 the divisional and regional offices at the same  
25 place.

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- 1 Q. Okay.
- 2 A. And there's so many of these that --
- 3 Q. Specific to Minnesota, do you know whether the
- 4 divisional offices in Minnesota are housed in
- 5 Minneapolis-St. Paul and Duluth, the two places you
- 6 have looked for documents?
- 7 A. I believe they are.
- 8 Q. Okay.
- 9 A. I -- I believe they are.
- 10 Q. And then we get down to the final bottom of the
- 11 organization, which is territories.
- 12 A. Yes.
- 13 Q. Are there territorial offices?
- 14 A. There could be, I believe, but I -- I think they
- 15 basically report to the divisional offices.
- 16 Q. Okay. Do you know whether there are territorial
- 17 offices in Minnesota other than the Minneapolis-St.
- 18 Paul and Duluth offices?
- 19 A. I'm sure there aren't, sir, because if there
- 20 would, we would have gone and collected from those
- 21 offices.
- 22 Q. And you're confident there aren't; correct?
- 23 A. I'm confident that every location in Minnesota
- 24 that should have been collected from has been.
- 25 Q. And because of that, you're representing that

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1 there are no territorial offices in Minnesota other  
2 than the ones that have been searched; correct?

3 A. That is my best belief.

4 Q. Okay. Can you tell me how long the organization  
5 that's reflected in the organizational chart that is  
6 part of Deposition Exhibit 1006 --

7 MR. MONICA: 7 was the last one.

8 A. 7.

9 Q. -- 1007, I'm sorry, and specifically the  
10 organization reflected on Bates stamp number  
11 85310143, how long that organization was in place?

12 A. I cannot. I have no knowledge.

13 Q. Okay. And if I were con -- if --

14 If you needed to contact someone to figure that  
15 out, who would you contact?

16 A. I would contact Kathy Sparrow.

17 Q. The next document I have a question about is  
18 actually the next page, Bates stamp 85310144. This  
19 is entitled "OPERATIONS & RESEARCH."

20 A. Yes.

21 Q. Is the operations and research function, is this  
22 the function that's in Greensboro, North Carolina?

23 A. Yes, it is.

24 Q. Okay. Were operations and research always one  
25 department?

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1 A. I don't believe so.

2 Q. Where was operations physically located prior to  
3 this time?

4 MR. MONICA: "This time" being what?

5 MR. O'FALLON: "This time" being the  
6 document I'm referring to, which is dated 1984.

7 A. Physically operations and research have always  
8 been located in Greensboro.

9 Q. Okay. But not at the same facility?

10 A. As we had discussed earlier, the research  
11 function was originally housed in the manufacturing  
12 plant until the research center was built.

13 Q. In 1971 or 1969? Okay.

14 So since 1969 have operations and research been  
15 in the same physical facility?

16 A. No, sir. There have been two buildings. As we  
17 discussed, the research center was built in 1969 or  
18 so.

19 Q. Right.

20 A. The research function moved from the  
21 manufacturing plant to the research center.

22 Q. Okay.

23 A. I just want to clarify that because I'm not sure  
24 I understand your question.

25 Q. Well, and maybe I'm part of the cause of that.

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1 What is the operations department?

2 A. Operations would be -- I think what the  
3 confusion is, is that is a title for an individual.  
4 Operations would be the manufacturing operation.

5 Q. Okay. So at this point in time, which is 1984,  
6 Mr. Spears is the head of both the research and  
7 development side and the operations side?

8 A. Yes, that is correct.

9 Q. Okay. So what's happened is although there's  
10 two physical facilities, the supervision of those two  
11 physical facilities, at least from an executive point  
12 of view, is housed in one executive; correct?

13 A. Correct.

14 Q. And that executive at this point in time, 1984,  
15 was Mr. Spears?

16 A. Yes, sir.

17 Q. So in essence Mr. Spears -- is Mr. Spears the  
18 highest executive in Greensboro in 1984?

19 A. Yes.

20 Q. And he then reports to people in New York;  
21 correct?

22 A. Yes.

23 Q. Okay. Now I'd like to look at 85310153, and  
24 this is actually part of my confusion on the last, so  
25 this may now be straightened out. This is a

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1 organizational chart for manufacturing; correct?

2 A. Yes.

3 Q. So it's this vice president, Mr. Edwards, who's  
4 in charge of the manufacturing facility in  
5 Greensboro; correct?

6 A. That is correct.

7 Q. And --

8 MR. MONICA: Would you state the date,  
9 please. 1984, this chart.

10 MR. O'FALLON: What did I say?

11 MR. MONICA: You didn't state a date.

12 MR. O'FALLON: I thought I did.

13 MR. MONICA: I believe you didn't.

14 BY MR. O'FALLON:

15 Q. Well in any event, in March of 1984, with a  
16 revision handwritten in of January 1986, Mr. Edwards  
17 is in charge of the manufacturing plant at Greensboro  
18 and then reports to Mr. Spears; correct?

19 A. Yes, sir. He additionally is in charge of the  
20 Louisville plant.

21 Q. And it looks like he's also in charge of  
22 whatever's the tobacco processing plant. Is that  
23 Danville?

24 A. No, sir, that's Greensboro as well.

25 Q. Okay. So you have a processing plant in

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1 Greensboro. Is that physically part of the same  
2 Greensboro manufacturing plant?

3 A. It's attached.

4 Q. Okay. I'd then like you to look at 85310163.

5 This is an organizational chart at least for the  
6 upper management of the Louisville plant; correct?

7 A. That is correct.

8 Q. And this plant --

9 MR. MONICA: Again as of 1984.

10 MR. O'FALLON: Let me rephrase.

11 Q. This is an organizational chart for the  
12 Louisville plant as of May 1984 and, as handwritten,  
13 revised in January of 1986; correct?

14 A. That's correct.

15 Q. I'd just like you to look at the next page,  
16 164. Is this basically the same functions that are  
17 performed today in the Louisville plant as well, the  
18 ones that are listed here under the production  
19 manager?

20 A. We no longer own the Louisville branch.

21 Q. Okay. When was the Louisville branch sold?

22 A. 1986, I believe.

23 Q. As a matter of fact, I believe I have a document  
24 about that. I either may or may not.

25 MR. O'FALLON: I'm going to have marked as

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1 the next exhibit a document Bates stamp numbered  
2 87931508 through 511. I think I'm missing my copy.

3 (Jessup Plaintiffs' Exhibit 1009 was marked  
4 for identification.)

5 BY MR. O'FALLON:

6 Q. I'd ask you to look at 1009. These documents  
7 are documents that seem to refer to --

8 MR. MONICA: Please give her time to read  
9 it.

10 MR. O'FALLON: Well let me just  
11 characterize the document first, and then I will give  
12 her time to read it.

13 Q. These are documents that appear to relate to a  
14 sale of some portion of the plant to another company  
15 in Louisville, and with that in mind, I'd ask you to  
16 take a look at the document.

17 MR. MONICA: I object to counsel's  
18 characterization of the document.

19 MR. O'FALLON: Is it inaccurate?

20 MR. MONICA: I've made my objection.

21 Q. Ms. Jessup, you might want to, as you're looking  
22 through it, look through it with an eye towards  
23 whether my characterization of the document was  
24 inaccurate.

25 MR. MONICA: Object to -- if that's the

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1 question, I object to the form of the question.

2 MR. O'FALLON: I don't think it was a  
3 question. It was a request.

4 MR. MONICA: If I may ask, was this a  
5 document that you predesignated?

6 MR. O'FALLON: I believe it was, yes. You  
7 can check the predesignation. But since I had my  
8 labels taken off my predesignation list by my  
9 secretary, I assume it was on there.

10 BY MR. O'FALLON:

11 Q. Ms. Jessup, have you had a chance to review that  
12 document?

13 A. Yes, sir.

14 Q. Are you ready to testify?

15 A. Yes.

16 Q. The reason I brought this document out is  
17 because you just recently referred to the fact that  
18 you no longer have the Louisville facility. Was the  
19 Louisville facility sold?

20 A. Yes, it was.

21 Q. And who was it sold to?

22 A. National Tobacco Company.

23 Q. Okay. And when was it sold?

24 A. 1986, I believe.

25 Q. Okay. What I've had marked as Deposition

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1 Exhibit 1009 are actually two letters; correct?

2 A. That is correct.

3 Q. And both of these letters are from you; is that  
4 correct?

5 A. That is correct.

6 Q. The first letter is dated May 19th, 1988;  
7 correct?

8 A. That is correct.

9 Q. And it talks about what is going to be done with  
10 the documents from the Louisville plant; is that  
11 correct?

12 A. Yes.

13 Q. Okay. And specifically the documents related  
14 solely to cigarettes were shipped back to Greensboro  
15 for retention; is that accurate?

16 A. Yes.

17 Q. However, any documents that were commingled were  
18 not; correct?

19 MR. MONICA: Object to the form of the  
20 question, use of the term "commingled."

21 Q. Well, let me refer you to the fourth paragraph  
22 of your letter dated May 19th, 1988. It says, quote,  
23 "To the best of our knowledge, those records that  
24 are co-mingled (reports containing information on  
25 chewing/cigars and cigarettes,)" end quote, "do not

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1 disturb us, i.e. it would serve no logical purpose to  
2 physically dismantle those records removing only the  
3 cigarette-related information."

4 Have I read that correctly?

5 A. Yes, you have.

6 Q. And commingled's your term; correct?

7 A. Yes, it is.

8 Q. What did you mean by "commingled"?

9 A. Basically, that would be records that are  
10 together, reports that are together.

11 Q. Okay. What kind of reports would be  
12 commingled?

13 A. I have not looked back over this information for  
14 a good while either.

15 Q. Certainly.

16 A. So you're going to have to bear with me for a  
17 moment, if you will. The information that was coming  
18 out of Louisville, accounting information,  
19 information of all types about the business there,  
20 would have included information on little cigars,  
21 chewing tobacco and cigarettes.

22 Q. Was there any research done at the Louisville  
23 plant while Lorillard owned that plant?

24 A. The only function that was there was a quality  
25 control function for checking physical parameters

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1 and --

2 Q. Would you just go through real quickly for me  
3 the manufacturing processes related to cigarettes  
4 only that were located at the Louisville plant prior  
5 to the sale.

6 MR. MONICA: Object to the form of the  
7 question. It's beyond the notice.

8 MR. O'FALLON: Well my point here is I'm  
9 going to ultimately ask about what kinds of documents  
10 were generated regarding those processes, but I think  
11 in order to do that, I first have to have some  
12 understanding of what kind of processes were there,  
13 so it's really a foundational question in order to  
14 then ask what kind of documents were generated and so  
15 I can ultimately find out what kind of documents may  
16 have been commingled that were ultimately not  
17 retained and sent to Greensboro.

18 MR. MONICA: I'll let the witness go ahead  
19 and try to answer it as best she can, but she has not  
20 been designated to state -- to state -- to testify  
21 what the structure was in Louisville.

22 MR. O'FALLON: But the point is, is she's  
23 the person -- well I'll ask this.

24 BY MR. O'FALLON:

25 Q. You are the person with the most knowledge of

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1 the documents that were in existence at the  
2 Louisville office at the time of sale; is that  
3 correct?

4 A. That is correct.

5 Q. And you're the person who's most knowledgeable on  
6 what documents were sent from the Louisville facility  
7 to Greensboro for retention; correct?

8 A. That's correct.

9 Q. And you're also the person most knowledgeable  
10 about what was not sent; correct?

11 A. Yes.

12 Q. Were there any smoking-and-health documents at  
13 the Louisville plant at the time of the sale?

14 A. Not to my recollection.

15 Q. Okay. Were there any documents that concerned  
16 cigarette manufacturing in which any kind of a  
17 top-dressing was applied to the cigarettes at the  
18 Louisville facility?

19 MR. MONICA: Object to the form of the  
20 question.

21 MR. O'FALLON: On what basis?

22 MR. MONICA: You used a term you haven't  
23 defined.

24 Q. Do you understand what top-dressing means?

25 A. No, sir, I don't.

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1 Q. Do you understand that there are times when  
2 certain flavorings are added back to the tobacco?

3 A. Added back?

4 Q. Put on the tobacco.

5 A. Yes.

6 Q. Okay. For instance, you understand that menthol  
7 is not naturally occurring in the tobacco leaf?

8 A. That's -- yes, sir.

9 Q. That somehow menthol has to be added?

10 A. That's correct.

11 Q. You also understand there are other flavoring  
12 ingredients that are added?

13 A. That's correct.

14 Q. Okay. Were there any documents concerning any  
15 flavoring ingredients applied to cigarettes at the  
16 Louisville plant that were not sent back to  
17 Greensboro pursuant to this document?

18 A. Not to my knowledge.

19 Q. Okay. When you said there were parameter  
20 testing, would that include nicotine content of  
21 cigarettes?

22 MR. MONICA: Again it's beyond the scope of  
23 this deposition. She hasn't been noticed to testify  
24 what kind of testing was done. She's -- she's --

25 MR. O'FALLON: Again it's a precursor to --

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1 MR. MONICA: -- been noticed to testify on  
2 the collection and production of documents. I object  
3 on that basis.

4 MR. O'FALLON: I think if you just say,  
5 "Objection, scope," we'd probably handle it.

6 A. I'm sorry, was that directed to me?

7 Q. No, that was directed to your counsel, since the  
8 court has asked that we not make speaking  
9 objections.

10 Again what I'm trying to get at here are  
11 documents that may not have been shipped back to  
12 Greensboro or that were shipped that have to do with  
13 cigarettes specifically. Do you know whether there  
14 were any documents that set forth nicotine content of  
15 cigarettes at the Louisville plant?

16 A. I do not specifically recall those.

17 Q. Okay.

18 A. If they were there, the testing would not have  
19 been done in Louisville.

20 Q. Okay. Where would the testing have been done?

21 A. In Greensboro --

22 Q. Okay.

23 A. -- research facility and --

24 Q. Okay. Were there any biochemical testing  
25 documents at the Louisville plant?

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- 1 A. Not to my recollection.
- 2 Q. Okay. Were there any ingredient chemical
- 3 testing documents at the Louisville plant?
- 4 A. Not to my recollection.
- 5 Q. Okay. Were there formula documents at the
- 6 Louisville plant?
- 7 A. There were.
- 8 Q. And were they sent back?
- 9 A. They were.
- 10 Q. Okay. Where were these documents stored once
- 11 they were sent back to Greensboro?
- 12 A. The records center.
- 13 Q. Okay. And that's the records center under your
- 14 control?
- 15 A. That is correct. In order to be complete with
- 16 my answer --
- 17 Q. Certainly.
- 18 A. -- and not to mislead you, some of those records
- 19 on the accounting/financial end of the records were
- 20 forwarded to Danville for a short period of time
- 21 because the individual who would be dealing with
- 22 those on a company level was in Danville.
- 23 Q. Okay. The Danville plant, that's still in
- 24 operation; correct?
- 25 A. Yes.

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1 Q. And so those records would still be at the  
2 Danville plant?

3 A. Yes.

4 Q. Or did those --

5 Did that individual move again and did those  
6 records move with that individual?

7 A. He moved again, but I believe those records are  
8 still there because his successor, I believe, was  
9 dealing with those.

10 Q. Okay. In the first page of your letter it  
11 refers to MIS. What department is that?

12 A. Management information systems.

13 Q. What types of documents would have been at  
14 Louisville at this time concerning management  
15 information systems?

16 A. Here --

17 Q. Well strike that. Let me -- is --

18 Management information systems, is that again  
19 your computer tech people?

20 A. Yes, it is.

21 Q. Okay, I'm sorry. I don't need to go into that.

22 Does this letter dated May 19th, 1988 accurately  
23 set out what was actually done regarding the  
24 retention of the documents from the Louisville  
25 plant? And let me clarify that question. It appears

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1 that in the letter what you're basically doing is  
2 proposing a schematic -- a way in which this will be  
3 handled. Is that in fact how it was handled?

4 MR. MONICA: Object to the form of the  
5 question.

6 MR. O'FALLON: Let me restate it.

7 Q. Was the actual transfer of documents done in  
8 accordance with the May 19th, 1988 letter?

9 A. This was --

10 It was a general framework, yes.

11 Q. Were there any major deviations from the  
12 framework set forth in the May 19th, 1988 letter?

13 A. Here again, I have not gone back and reviewed  
14 the entire file on that. I'm very knowledgeable about  
15 what took place at that time, but at the same time I  
16 could not answer specific questions. I do not  
17 believe there would have been any major deviations,  
18 however. That is my present recollection.

19 Q. Okay. And if at some point in time you come  
20 across different information, would you please let  
21 your counsel know so we can collect -- correct the  
22 record on that?

23 A. Certainly.

24 Q. Thanks.

25 (Discussion off the stenographic record.)

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1 THE REPORTER: Off the record, please.

2 (Recess taken.)

3 BY MR. O'FALLON:

4 Q. Ms. Jessup, I've asked you to take a look at  
5 Exhibit 1007 and specifically Bates stamp 853107 --  
6 let's do that again. 85310170. I think we covered  
7 this in the prior questioning, but I just want to  
8 clarify.

9 This is an organizational chart for Louisville,  
10 the shipping wholesale receiving and distribution  
11 department; correct?

12 A. Shipping warehouse.

13 Q. I'm sorry, shipping warehouse. Would this just  
14 be to govern incoming and outgoing tobacco products?

15 A. Yes, and other materials, office stationery  
16 supplies, receiving whatever. And that was 1984 as  
17 well; right?

18 Q. That's correct.

19 I'd also like you to look at the same exhibit,  
20 Bates stamp number 85310181. This appears to be a  
21 organizational chart for research and development  
22 dated May of 1984 with a revision date of 1/86, and  
23 I'd specifically like you to look at the Life  
24 Sciences Division.

25 A. I'm sorry, you did say document 181. I was on

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1 the previous document.

2 Q. Sure.

3 A. Okay. Yes.

4 Q. Has life sciences been a part of research and  
5 development the entire time you've been at the  
6 company?

7 A. No, sir.

8 Q. When did that department start?

9 A. My recollection was around 1980.

10 Q. What type of -- I notice that they have a  
11 toxicologist and an analytical biologist with that  
12 department.

13 A. That is on the chart, yes.

14 Q. Okay. And you have a fair familiarity with the  
15 research and development department; correct?

16 A. Fair.

17 Q. What type of documents do the toxicologist and  
18 analytical biologist generate in that department?

19 A. They would have --

20 They would generate research proposals for  
21 experimentation, memoranda, reporting results,  
22 research protocols.

23 Q. What does the term "life sciences" mean?

24 A. To me it means basically a biological.

25 Q. Is this the department where they did research

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1 concerning the biological effects of cigarette smoke,  
2 one of the departments where they did research  
3 concerning the biological effects of cigarette  
4 smoke?

5 A. Yes.

6 Q. Were there animal testing facilities associated  
7 with the life sciences department?

8 MR. MONICA: Again I object as beyond the  
9 scope of the notice. Go ahead and try to answer it,  
10 if you can.

11 A. I believe at one point in time there were animal  
12 research experiments.

13 Q. Okay. Do you know what point in time that was?

14 A. I could not.

15 Q. Can you give me your best approximation.

16 A. It would have been around the time frame of the  
17 formation of the department, I believe. That may  
18 have been late '70s, early '80s, in that time frame.

19 Q. And to the best of your knowledge, were the  
20 results of those animal experiments -- experiments  
21 retained; i.e., the documents generated by those  
22 experiments, were those all retained?

23 A. To the best of my knowledge.

24 Q. Is there still a Life Sciences Division at  
25 Lorillard?

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1 A. There is.

2 Q. Just so I can understand this, tobacco sciences,  
3 is that more tobacco-specific research; i.e., what's  
4 tobacco made up of, the components of tobacco, that  
5 kind of thing?

6 A. Yes.

7 Q. Okay. That's all the questions I have on that  
8 document. I'd next ask you to turn to Exhibit 1008.  
9 Can you identify that document.

10 A. Here again these are organization charts of  
11 the -- of the company, examples.

12 Q. I'm going to ask these questions because I  
13 wasn't certain when I reviewed these documents as  
14 they were produced whether or not these questions  
15 were true, so I'm going to ask you because you're  
16 someone with the -- the company, and the reason I'm  
17 asking is so that I will have an understanding of  
18 basically what departments were in existence at about  
19 the time that you began your document production  
20 search for the State of Minnesota.

21 Is this a complete organizational chart for the  
22 company as of this time, 1993? Does it appear to you  
23 to be?

24 A. I'm going to need to take a few minutes.

25 Q. Yeah, sure.

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- 1 A. I'm sorry, I cannot read the last page.
- 2 Q. Well neither can I. I was going to say -- I was
- 3 actually going to say that if I could read the last
- 4 page, we -- we could just go to it and probably save
- 5 ourselves a lot of time, but I can't read it either.
- 6 So again, when I'm asking you questions on this, I'm
- 7 less concerned with the individuals who are
- 8 identified. What I'm concerned about is the
- 9 departments and whether the departments are
- 10 physically located in the places where they appear to
- 11 be based on this organizational chart.
- 12 A. Okay.
- 13 Q. So having stated that, does this look fairly
- 14 complete for the year 1993?
- 15 A. Yes, it does.
- 16 Q. Okay. Have there been major changes in the
- 17 physical location of departments since 1993 at
- 18 Lorillard?
- 19 A. Not that I can observe here.
- 20 Q. Okay. And it appears based on this organization
- 21 chart that we still have Lorillard Tobacco offices in
- 22 New York; correct?
- 23 A. Yes.
- 24 Q. Greensboro?
- 25 A. Yes.

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- 1 Q. Two offices in Greensboro; correct?
- 2 A. Two buildings.
- 3 Q. Two buildings in Greensboro?
- 4 A. If you will, yes.
- 5 Q. A manufacturing facility?
- 6 A. Yes.
- 7 Q. And also the research and development facility
- 8 in Greensboro?
- 9 A. Yes.
- 10 Q. We still have the Danville plant?
- 11 A. Yes.
- 12 Q. I saw a reference to a Lexington plant.
- 13 A. I'm sorry.
- 14 Q. I'll go to the -- the specific page I saw that.
- 15 MR. MONICA: Mr. O'Fallon, on the Danville
- 16 plant, she's of course previously testified as to the
- 17 present status of that plant.
- 18 MR. O'FALLON: No, I understand.
- 19 Q. On page 87759514.
- 20 A. 514?
- 21 Q. Right. Do you see up in the top right-hand
- 22 corner it says "LEAF PROCESSING DANVILLE/LEXINGTON"?
- 23 A. To my --
- 24 Q. Up in the legend portion of it right up here.
- 25 A. Okay. I under -- I see it, yes.

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1 Q. Do you know what that's referring to?

2 A. No, sir, I don't.

3 Q. Okay. Because the Lexington facility, as far as  
4 you know, shouldn't be around at this point in time;  
5 correct?

6 A. That is correct.

7 Q. Okay. I now want to talk a bit about the  
8 collection that you've done previously. I know we've  
9 outlined just in general the time frames in which you  
10 did that collection, but I want to talk a little bit  
11 about the reasons for your previous collection.

12 It's your understanding that Lorillard has been  
13 involved in litigation involving allegations about  
14 smoking and health for numerous years; correct?

15 A. That is correct.

16 Q. As a matter of fact, I think in looking through  
17 our documents, it appears that Lorillard may have  
18 been involved as early as the 1950s in what we would  
19 call quote, "individual smoker cases," end quote,  
20 involving smoking-and-health issues; correct?

21 MR. MONICA: Object to the form of the  
22 question.

23 MR. O'FALLON: Okay, I'm sorry. What's  
24 your specific objection?

25 MR. MONICA: Well you've made a statement.

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1 I think it should be in the form of a question.

2 MR. O'FALLON: I'll let my question stand.

3 Would you repeat it.

4 (Record read by the court reporter.)

5 MR. MONICA: Same objection.

6 A. That is correct.

7 Q. Okay. And documents were organized and

8 collected even in those early cases; is that

9 correct?

10 A. I would assume so. I was not involved actively  
11 with those collections.

12 Q. Has Lorillard kept its files regarding those

13 early tobacco cases? And when I'm saying "early"

14 here, I'm going to now talk about prior to 1984

15 because you identified 1984 as the year in which you  
16 did the first collection.

17 A. To my best knowledge, anything related has been  
18 retained, yes.

19 Q. And that would include the documents actually  
20 produced by Lorillard in those cases?

21 MR. MONICA: Objection, assumes a fact not  
22 in evidence.

23 Q. Do you know whether Lorillard --

24 A. I'm sorry.

25 Q. Sure, let me -- let me back up.

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1 Do you know whether or not Lorillard ever  
2 produced documents in response to requests in their  
3 pre-1984 smoking-and-health litigation?

4 A. I would not have been involved with that.

5 Q. So you do not know?

6 A. I cannot state of my own personal knowledge,  
7 no.

8 Q. Okay. Understand again that you're here as a  
9 representative of Lorillard.

10 A. I understand.

11 Q. Based on your functions as a person responsible  
12 for document collection, is it your understanding  
13 that documents were collected and produced by  
14 Lorillard in smoking-and-health litigation prior to  
15 1984?

16 A. That is my understanding, yes.

17 Q. Okay. And on what do you base that  
18 understanding?

19 A. It would have been discussions, knowledge gained  
20 through my current position.

21 Q. And all documents produced by Lorillard in  
22 previous litigation; that is, litigation prior to  
23 1984, were retained; correct?

24 A. Yes, sir.

25 Q. Okay. And where were they physically retained

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1 at?

2 A. In stored record files in the records center in  
3 Greensboro, here again with the caveat that if  
4 someone needed something for business purposes, they  
5 would keep that until they no longer needed it for a  
6 business purpose.

7 Q. Let me then ask some follow-up questions on that  
8 caveat.

9 Were copies of the documents that were produced  
10 in the previous litigation prior to 1984 kept and  
11 retained in your facility regardless of whether the  
12 originals were used by the people who needed them in  
13 the Lorillard business?

14 A. Here again we would not -- the records center  
15 would not receive the document until such time as  
16 there was no need for a business need, at which time  
17 we received the original of the document. I'm not  
18 sure I understand --

19 Q. I think you --

20 A. -- your question.

21 Q. Well let me do some follow-up then.

22 Were all the individuals who had documents  
23 produced from their files in litigation prior to  
24 19 -- 1984 informed of the need to retain that  
25 document permanently?

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1 A. We have always and part of our process is to  
2 inform. I was not in my position in 1984, so -- but  
3 that has been a part and parcel of our procedure.

4 Q. Was there some way that documents produced in  
5 litigation prior to 1984 were marked so that, for  
6 instance, in 1984 when your attorneys or you or  
7 whoever did it went back and went through the  
8 documents in all the documents for collecting that  
9 they would be able to know that, okay, this one was  
10 produced in previous litigation?

11 A. Let me -- let me reiterate something here  
12 because I -- I hope I haven't misled you. The first  
13 collection for smoking and health, the first major  
14 collection, was in 1984. Prior to 1984, there was a  
15 leaf antitrust case. We used some documents in  
16 litigation, those types of things, but the first  
17 large collection of which I am aware was 1984.

18 Q. Right. That was my understanding as well. What  
19 I'm asking --

20 A. Okay.

21 Q. -- about is prior to that time, and what I'm  
22 specifically asking about --

23 A. Uh-huh.

24 Q. -- is individual documents collected and  
25 produced in individual smoking-and-health cases.

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1 A. Uh-huh.

2 Q. So what I'm asking is if a document was  
3 collected and produced in a smoking-and-health case  
4 prior to 1984, was there some way that it was denoted  
5 in the individual's file for the future?

6 A. Okay. What we have always done, when we have  
7 had a document copied for litigation, it is marked.  
8 There -- it might be one of several different  
9 markings, but it is marked. It is indicated, and  
10 people were told to retain those documents in all  
11 cases, instances of which I am aware.

12 Q. But it's also my understanding that if, for  
13 instance, there were a group of documents produced in  
14 a -- in a case in 1962 hypothetically, John Doe  
15 versus Lorillard, that you would not receive back all  
16 of the documents produced from that case until such  
17 time as whoever was using those documents in  
18 Lorillard and Lorillard's business were done with  
19 those documents?

20 A. Let me --

21 MR. MONICA: I object -- object to the form  
22 of the question.

23 A. Let me differentiate here. We're talking about  
24 produced, and --

25 Q. Right.

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1 A. -- what I'm talking about and have been for the  
2 last several questions is collected.

3 Q. Okay, okay. Well then let's use collected.

4 A. Yeah, that's --

5 Q. Okay. And let me restate my question then.

6 If a document was collected, for instance,  
7 and -- strike that. Let me use a hypothetical so I  
8 can see if I understand what happened.

9 Let's say a document was collected from the R&D  
10 department for an individual smoker suit.

11 A. Okay.

12 Q. And that document was given to lawyers or  
13 whatever it is you did with it at Lorillard and then  
14 at some point was given back to the R&D individual  
15 who was using that document. In your department, you  
16 would not see that document until that individual was  
17 done with it for that individual's business purposes;  
18 is that accurate?

19 A. I would not see it in the stored records  
20 center.

21 Q. Right.

22 A. That is accurate.

23 Q. The only other place that you would see that  
24 document is if you went to that individual's  
25 department and to the file cabinet where that



1 individual kept that document; correct?

2 A. That, and there is a copy of it.

3 Q. Okay. Where is --

4 A. That is given to our attorneys, --

5 Q. Okay.

6 A. -- our counsel.

7 Q. Okay. So there is a -- a collection of all the  
8 documents collected for previous litigation; that is,  
9 litigation prior to 1984, in your attorneys' offices;  
10 correct?

11 MR. MONICA: I'm going to object as on  
12 foundation. It assumes a fact not in evidence.

13 MR. O'FALLON: I'm asking the question.

14 A. To my knowledge, any document collected from our  
15 files for use in litigation, our attorneys have a  
16 copy of that document.

17 Q. Okay. And when you say "our attorneys," who are  
18 you referring to?

19 A. Outside legal counsel.

20 Q. Specifically which counsel?

21 A. At this --

22 At Shook, Hardy & Bacon is where the archives  
23 are maintained.

24 Q. Okay. So in Shook, Hardy & Bacon's offices  
25 there is an archive file of every document that has

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1 ever been produced in smoking-and-health litigation  
2 prior to 1984; correct?

3 MR. MONICA: I make the same objection,  
4 form of the question and assumes a fact not in  
5 evidence.

6 A. There is a copy of each document that has been  
7 collected.

8 Q. Okay.

9 A. Produced is --

10 Q. Right, you're right. That's -- you're right,  
11 and that's a valid statement. Let me rephrase my  
12 question.

13 There is in Shook, Hardy, Bacon's offices an  
14 archive section that has a copy of every document  
15 collected by Lorillard for smoking-and-health  
16 litigation prior to 1984; correct?

17 MR. MONICA: Same objection, assumes a fact  
18 not in evidence and -- and foun -- and form of the  
19 question.

20 A. If documents have been collected for litigation  
21 purposes, there is a copy in the archive.

22 Q. Okay. And I'm specifically asking now about  
23 smoking-and-health litigation. Do you understand  
24 what I mean by "smoking-and-health litigation"?

25 A. Yes, I do.

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1 Q. Okay. And by that I mean any case brought by an  
2 individual or otherwise that alleges that smoking  
3 caused the disease. Okay?

4 A. Understand.

5 Q. Prior to 1984, were documents collected to be  
6 produced in smoking-and-health litigation by  
7 Lorillard Tobacco Company?

8 MR. MONICA: Prior to 1984?

9 MR. O'FALLON: That's what I said.

10 A. It is my understanding that the first large  
11 collection for smoking and health related, as I say  
12 again -- I'm not sure I understand --

13 Q. Okay. I'm not asking about large collections  
14 necessarily. Is it your testimony that there were no  
15 documents collected by Lorillard Tobacco for  
16 smoking-and-health litigation prior to 1984?

17 MR. MONICA: Can we maybe have that  
18 question read back, please.

19 THE WITNESS: I'm --

20 (Record read by the court reporter.)

21 A. And my response is that I am familiar with 1984  
22 collection forward. From a perspective of being  
23 associated with the collection, my first collection  
24 was '86-'87. Of my own knowledge, I did not observe  
25 that. I do know that I believe there were prior

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1 collections, but I cannot unequivocally state to you  
2 from whom information was collected in a broad  
3 sense. I just cannot -- I'm not trying to be  
4 unresponsive. I simply do not know --

5 Q. Okay. And I --

6 A. -- how many or what or any, you know, of that  
7 nature.

8 Q. Okay. And by the same token, I need to make my  
9 record clear.

10 A. Uh-huh, I understand.

11 Q. As a representative of Lorillard who's here  
12 today to testify about collection and production of  
13 documents, did Lorillard collect documents in  
14 smoking-and-health litigation prior to 1984?

15 MR. MONICA: I make the same objection.

16 A. I believe I -- I think as an employee I do  
17 believe I remember people going through our files  
18 prior to '84, but I cannot state that with absolute  
19 clarity today.

20 Q. Who is the person who would have the most  
21 knowledge about documents collected from Lorillard's  
22 files in smoking-and-health litigation prior to  
23 1984?

24 A. I believe that would be Mr. Tom Moring, who was  
25 my predecessor.

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1 Q. And where is he now?

2 A. He is now at Greensboro, director of quality  
3 management.

4 Q. Did you have an opportunity to talk with him  
5 prior to this deposition?

6 A. Not in preparation for the deposition, no.

7 Q. You do have knowledge of an archive that is  
8 maintained at Shook, Hardy & Bacon; correct?

9 A. Absolutely.

10 Q. And your understanding of that archive is that  
11 that archive includes documents that were collected  
12 from Lorillard prior to 1984; correct?

13 MR. MONICA: Object to that as based upon  
14 form of the question and misstates her testimony.

15 A. What I'm saying is that any documents collected  
16 for litigation, it is my understanding that any  
17 documents collected for litigation are housed in that  
18 archive.

19 Q. Okay. But it's further your testimony that  
20 documents were collected for litigation prior to  
21 1984; correct?

22 A. I believe --

23 MR. MONICA: Wait a minute. What kind of  
24 litigation? You're changing your question. I  
25 object --

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1 MR. REILLY: How many times is he going to  
2 ask it?

3 MR. MONICA: -- on the form of the  
4 question.

5 MR. O'FALLON: Well it's been asked a lot  
6 because I haven't got a clear answer yet, so I'm  
7 going to ask it until I get a clear answer.

8 (Discussion off the stenographic record.)

9 MR. MONICA: I object to the  
10 characterization by counsel of the witness's  
11 testimony.

12 MR. O'FALLON: I'm attempting to get at  
13 some information here, and I'm going to ask questions  
14 till I get at that information. If in-house counsel  
15 wants to make objections, in-house counsel can ask  
16 counsel who's been designated here to make those  
17 objections, but what I'm trying to get at is what is  
18 in the Shook, Hardy, Bacon archives. I'm entitled to  
19 that information, and if this witness has it, I would  
20 like to get at that information. And that's why I'm  
21 asking these questions, and I will ask the questions  
22 until I get an answer.

23 MR. MONICA: Well --

24 BY MR. O'FALLON:

25 Q. And -- and let's just go back to the foundation

1 question alone, because I'm not necessarily asking  
2 about your personal knowledge. I'm asking about your  
3 knowledge as a representative of Lorillard. Okay?

4 MR. MONICA: I -- I object to this as being  
5 repetitive and redundant.

6 MR. O'FALLON: Well I haven't gotten an  
7 answer, sir.

8 MR. MONICA: She's testified if there's any  
9 collections for smoking and health were made,  
10 they're -- they're at Shook Hardy. She's told you  
11 she doesn't know if they were made before 1984, and  
12 she's testified to that over and over again.

13 MR. O'FALLON: Well then I want some --  
14 well no, you've now testified to that, so then who  
15 knows that information?

16 MR. MONICA: I object on the basis that  
17 you've covered it over and over and she's given you  
18 her best testimony.

19 MR. O'FALLON: Well I'm not entitled to  
20 just her best testimony. I'm entitled to an answer  
21 to my question because she's a corporate designee.  
22 Are you going to represent that Lorillard doesn't  
23 know what's in the archives at Shook, Hardy & Bacon?

24 MR. MONICA: You're not taking my  
25 deposition.

1 MR. O'FALLON: Well then stop testifying.

2 MR. MONICA: I'm not. I'm making  
3 objections.

4 MR. O'FALLON: That's right. And I'm  
5 entitled to someone live here who can testify and  
6 answer those questions.

7 MR. MONICA: She has testified.

8 MR. O'FALLON: She hasn't testified fully.

9 MR. MONICA: Ask your questions --

10 MR. O'FALLON: I've asked my questions.

11 MR. MONICA: -- properly and succinctly.

12 MR. O'FALLON: Sir --

13 MR. MONICA: And don't change them and  
14 she'll answer them.

15 MR. O'FALLON: Sir, I've asked my questions  
16 properly and succinctly, and I'm going to go back and  
17 ask again.

18 BY MR. O'FALLON:

19 Q. Who at Lorillard knows what's in the archives  
20 that are maintained at Shook, Hardy & Bacon prior --  
21 strike that.

22 Who at Lorillard knows what documents were  
23 placed in the archives at Shook, Hardy & Bacon for  
24 Lorillard prior to 1984?

25 MR. MONICA: I'm going to object to that,



1 form of the question, assumes a fact not in  
2 evidence.

3 A. Tom Moring, who was in charge of the records  
4 retention system, stored cartons prior to my tenure.

5 Q. He stored cartons where?

6 A. Sorry?

7 Q. He stored cartons where?

8 A. In the records center.

9 Q. Okay.

10 A. Okay. He would have worked with those. He had  
11 my position. He had the research administrator  
12 position prior to me. If there had been collections  
13 or someone had worked with the stored cartons, he  
14 would be the individual that had been worked with.

15 Q. Okay. So you can't --

16 So you do not know on behalf of Lorillard  
17 whether or not documents were collected in  
18 smoking-and-health litigation prior to 1984;  
19 correct?

20 A. At no -- I was not personally involved with that  
21 collection other than I believe as an employee my  
22 files may have been gone through. I'm trying to be  
23 as forthcoming as I can, sir. And basically I do not  
24 know what was collected. I do -- I certainly would  
25 not know what is produced.

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1 I can state unequivocally if information was  
2 copied and marked copied and -- or have been returned  
3 either to employees or to our stored records files,  
4 the copies that were derivatives of that from that --  
5 those originals would have been placed in the  
6 archives in our attorneys' law firm. I'm so sorry I  
7 do not know how to be more complete than that.

8 Q. So if --

9 So you do not know specifically that documents  
10 were collected in smoking-and-health litigation and  
11 sent to Shook, Hardy & Bacon prior to 1984; correct?

12 A. I cannot unequivocally state that, no.

13 Q. The person with that information outside of  
14 Shook, Hardy & Bacon would be Tom Moring; correct?

15 A. To the best of my knowledge, yes. He would be  
16 the best source to the best of my knowledge.

17 Q. Do you know how Shook Hardy maintains its  
18 archives? Are you familiar with that?

19 MR. MONICA: Object to the form of the  
20 question.

21 A. I have --

22 I am familiar with the archive system. I don't  
23 know exactly -- could you be more specific?

24 Q. Have you been --

25 Have you specifically been to Shook, Hardy &

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1 Bacon's archive facility?

2 A. Yes, I have.

3 (Discussion off the stenographic record.)

4 Q. You have seen Shook, Hardy & Bacon's archive  
5 facility; correct?

6 A. Yes, I have.

7 Q. Where is that archive facility located?

8 A. In Kansas City.

9 Q. Is it connected with the offices of Shook,  
10 Hardy & Bacon?

11 A. Yes.

12 Q. Is it on a floor of the building in which they  
13 occupy?

14 A. It is a building occupied by Shook.

15 MR. MONICA: Counsel, I -- I think you're  
16 getting close to work product and attorney client.  
17 You haven't gotten there yet.

18 MR. O'FALLON: I'm entitled to facts, and  
19 that's what I'm asking for, is facts. I don't want  
20 to know any attorney impressions, and I take it that  
21 your attorney impressions aren't involved in storing  
22 documents physically.

23 MR. MONICA: Well --

24 Q. Are the documents --

25 Are Lorillard's documents kept separate from any

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1 other defendants' documents at that facility?

2 A. Yes.

3 Q. Are they kept in a locked room?

4 A. Yes, they are.

5 Q. Is there security surrounding that room?

6 A. Yes, sir, there is.

7 Q. Who has access to that room?

8 A. The archivist.

9 Q. Who is?

10 A. Richard Bayse at the point I went. Bayse. I

11 believe it's B-a-y-s-e.

12 Q. Is that individual a lawyer?

13 A. I don't believe so.

14 Q. Who employs that individual?

15 A. Shook, Hardy, Bacon.

16 Q. Does that individual have responsibility for

17 documents other than Lorillard's documents?

18 MR. MONICA: I'm going to object to this

19 being beyond the scope of the notice. Your notice

20 says collection and production. You're going into

21 how Shook Hardy maintains its archive. Now I think

22 it's beyond the scope. I object.

23 A. I do not know.

24 Q. In the previous smoking-and-health litigation

25 prior to 1984, do you know whether or not there were

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1 document retention orders entered by courts?

2 A. No, sir, I don't.

3 Q. Who would know that?

4 A. Here again I'm not sure. Mr. Moring might.

5 Certainly Lorillard's legal staff would.

6 Q. You said that you recalled prior to 1984 that at

7 some point people went through the records. Do you

8 recall who went through those records?

9 MR. MONICA: Object to the form of the  
10 question.

11 A. I believe that my records were gone through  
12 prior to 1984. That's a while back and --

13 Q. Sure.

14 A. -- I don't have perfect memory, I'm sorry, and I  
15 do not recall individuals. I just recall I believe  
16 there -- my files were gone through prior to 1984.

17 Q. Okay.

18 A. And I cannot state that -- I want to be very  
19 clear with you I cannot state that unequivocally, but  
20 that is my best belief and my present recollection.

21 Q. Is the Lorillard employee who would have had the  
22 most knowledge of that collection process Tom Moring  
23 prior to 1984?

24 MR. MONICA: Objection, form of the  
25 question, assumes a fact not in evidence.

1 A. For stored records, he -- as I stated, he was  
2 the research administrator with responsibility for  
3 the record center prior to me. For stored records,  
4 he would be.

5 Q. How about for document collection? Do you know  
6 of anybody prior to 1984 who was responsible for  
7 document collection?

8 A. No, sir, I don't.

9 Q. Who would know that?

10 A. Sorry, I'm thinking. I'm trying to give you the  
11 best answer that I can.

12 If there were litigation issues and if there  
13 were various and sundry files that needed to be  
14 investigated prior to 1984, prior to the first  
15 collection of which I am aware as a formal  
16 collection, I don't know other than our legal counsel  
17 who would have -- who would have that information.

18 Q. Okay. And which legal counsel are you referring  
19 to? Are you referring to in-house counsel or  
20 out-house counsel?

21 A. In-house.

22 Q. Okay. And who would have been the in-house  
23 counsel responsible for smoking-and-health litigation  
24 prior to 1984?

25 A. I don't -- I know our vice president is

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1 Mr. Arthur Stevens. I do not know who -- I'm not as  
2 familiar with the structure of the department at that  
3 time.

4 Q. So as you sit here today, you can't tell me  
5 which legal counsel in-house at Lorillard would have  
6 had responsibility for smoking-and-health litigation  
7 prior to 1984?

8 A. No, sir.

9 Q. And it's your belief that that person would be  
10 the one who would have the most knowledge about  
11 collection of documents for litigation prior to 1984;  
12 correct?

13 MR. MONICA: Object, assumes fact --

14 Q. Smoking-and-health litigation prior to 1984;  
15 correct?

16 A. Yes, sir.

17 MR. MONICA: Again foundation and -- and  
18 assumes a fact not in evidence.

19 MR. O'FALLON: Well I'm trying to get the  
20 fact in evidence. That's part of my frustration  
21 here. If we had somebody who could answer, we  
22 wouldn't have to worry about that.

23 MR. MONICA: Object to counsel's comments.  
24 Are we at a point where --

25 MR. O'FALLON: Let me just ask -- let me --

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1 you know, we've taken quite a few breaks here. I do  
2 have ten hours and I do want to get through it in two  
3 days, so let me just take a few minutes and start  
4 into the 1984 document collection if that's okay with  
5 you. Can I go about another five minutes?

6 MR. MONICA: Sure.

7 BY MR. O'FALLON:

8 Q. What Lorillard employee coordinated the document  
9 collection effort that was undertaken in 1984?

10 A. Tom Moring.

11 Q. Did you play a part in that document  
12 collection?

13 A. Only as a collected employee's files, not as --  
14 no.

15 Q. How did you gain knowledge about the 1984  
16 collection for purposes of talking about that here  
17 today?

18 A. Basically I know how many pages were -- you  
19 know, just in conversations.

20 Q. Okay. Did you know how many pages were  
21 collected in 1984?

22 A. Yes.

23 Q. How many?

24 A. I believe it was about a million and a half.

25 Q. What was the reason that the document collection

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1 in 1984 was undertaken?

2 A. It was based on the smoking-and-health issue was  
3 coming to the fore. There was a case, the Cipollone  
4 case.

5 Q. Was the Cipollone case the primary reason that  
6 the 1984 collection was undertaken?

7 A. I would characterize that as a -- a driving  
8 force for that collection.

9 Q. And was that collection process undertaken  
10 because Lorillard had received requests for  
11 production of documents in 1984 in that case?

12 A. I have to believe it was. Here again I was not  
13 in my current position, but certainly.

14 Q. What departments were these 1.5 million  
15 documents collected from; do you recall?

16 A. Advertising/brand management, marketing  
17 research, research and development, operations and  
18 research, vice presidents' files. I may have missed  
19 something, but those are the broad -- those were the  
20 targeted areas.

21 Q. And copies of the 1.5 million documents that  
22 were collected in 1984 were sent to Shook, Hardy &  
23 Bacon; correct?

24 A. Yes, sir.

25 Q. And they were stored in the Shook, Hardy & Bacon

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- 1 archives; correct?
- 2 A. Yes.
- 3 Q. Of the 1.5 million documents collected in 1984,
- 4 do you know how many of those documents were actually
- 5 produced by Lorillard?
- 6 A. No, sir, I don't.
- 7 Q. Who would know that?
- 8 A. Counsel.
- 9 Q. In-house counsel or out-house counsel?
- 10 A. I would say outside counsel.
- 11 Q. Is there one particular outside counsel who
- 12 would have the most knowledge?
- 13 A. Are you saying firm or --
- 14 Q. Well let's start with firm and then I'll ask
- 15 individual as well.
- 16 A. That would be Shook, Hardy, Bacon.
- 17 Q. How about individual?
- 18 A. And we -- was this question in reference to the
- 19 1984 collection?
- 20 Q. It was.
- 21 A. I'm sorry, I don't know who that might have been
- 22 at that point in time.
- 23 Q. If you were going to find out the answer to that
- 24 question, who would you ask?
- 25 A. I would --

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1 I would probably ask either Claire McCurdy or  
2 John Monica to obtain that information for me.

3 Q. Physically were the documents collected in 1984  
4 stored separate and apart from any subsequent  
5 documents or previous documents in the Shook Hardy  
6 archive?

7 A. I'm sorry, would you --

8 Q. Okay.

9 A. I'm not trying to --

10 Q. What I'm really asking is whether or not if --  
11 if -- if you walk into the Shook Hardy archives  
12 today --

13 A. Uh-huh.

14 Q. -- would you be able to immediately go to those  
15 groups of documents that were produced in -- or  
16 strike that, that were collected in 1984? Are they  
17 kept separate from other collections?

18 A. There is a date I believe associated with when  
19 they were collected, so those could be identified as  
20 having been a part of the '84 collection or such.

21 Q. Can you tell looking at a document that's been  
22 produced in litigation just by looking at it whether  
23 it's a document that was collected in 1984?

24 A. No, sir.

25 Q. For instance, we've looked at some of these

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1 organizational charts.

2 A. Uh-huh.

3 Q. And there are Bates stamp numbers on there that  
4 look like they've been done with what appears to be  
5 one of the old standard Bates stamp --

6 A. Uh-huh.

7 Q. -- stamps. Is that particular Bates stamping  
8 system still in use today at Lorillard?

9 A. Yes, it is.

10 Q. Okay. Do you know whether those particular  
11 documents that were produced in 1984 were designated  
12 to start with a certain range of Bates stamp  
13 numbers?

14 A. The documents copied in the early collections  
15 were not Bates numbered on the original record.  
16 There was a stamp copied.

17 Q. With a date on it?

18 A. I don't believe there was a date either. It was  
19 just -- it was stamped "copied" or "copy."

20 Q. Okay.

21 A. And we would know, so that we would know, but  
22 the Bates numbers were not on the early copies,  
23 earlier collection copies.

24 Q. So if you were to just look at a document today,  
25 you wouldn't be able to tell necessarily whether it

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1 was first collected in 1984 or whether it was  
2 collected in 1986-'87 or -- or after that; correct?  
3 A. No, I would know this one is 1995-'96.  
4 Q. How do you know that?  
5 A. Because the Bates numbers are applied on the --  
6 if I had the original of this --  
7 Q. Okay.  
8 A. -- and it had a Bates number on it.  
9 Q. Okay.

10 MR. O'FALLON: Well let's take our break  
11 for lunch, and then we'll come back.

12 THE REPORTER: Off the record, please.  
13 (Luncheon recess taken at 12:02 o'clock  
14 p.m.)

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1 AFTERNOON SESSION

2 (Deposition reconvened at 1:15 o'clock  
3 p.m.)  
4 (Jessup Plaintiffs' Exhibits 1010 and 1011  
5 were marked for identification.)

6 MR. MONICA: Before we begin the  
7 questioning, I wanted to request that the witness  
8 would like to review and sign the deposition after  
9 it's typed up, and I wanted to mention that so we  
10 don't forget it at the end.

11 MR. O'FALLON: Okay. Sure.

12 THE WITNESS: Thank you.

13 BY MR. O'FALLON:

14 Q. Before the lunch break, we were talking about  
15 the 1984 collection of documents at Lorillard, and  
16 I'd like to return to that subject for a few  
17 minutes.

18 Are the 1.5 million documents collected by  
19 Lorillard in 1984 still in the Shook Hardy archives  
20 in their entirety?

21 A. Copies of those documents, yes.

22 Q. What type of collection parameters were used in  
23 collecting the 1984 documents? And by that I mean  
24 what were you looking for subject matter-wise when  
25 those documents were collected?

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1 A. Smoking-and-health-related issues,  
2 brand-specific information. I believe it was Kent  
3 and True. And I believe advertising, marketing  
4 research-type documents.

5 Q. As part of the 1984 document collection, were  
6 you looking for documents related to asbestos?

7 A. I have not heard that -- that mentioned.

8 Q. It's my understanding that -- that the Kent  
9 cigarette had what's called a micronite filter. Is  
10 that your understanding?

11 A. Yes.

12 Q. And that the micronite filter at one point in  
13 time had asbestos in it?

14 A. I believe that's correct, yes.

15 Q. And that there have been allegations -- and I  
16 don't know the exact dates of the lawsuits -- that  
17 the asbestos in those filters caused various types of  
18 injuries, including, I assume, mesothelioma; is that  
19 your understanding?

20 A. Yes.

21 Q. Was there any specific search in 1984 for  
22 documents concerning asbestos within your  
23 facilities?

24 A. I have not heard that specifically mentioned.

25 Q. The micronite filter is manufactured by another

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1 entity; is that true?

2 A. It was.

3 Q. And what was the name of that company?

4 MR. MONICA: Again I'm going to object.

5 It's beyond the scope of the deposition notice. The

6 witness has not been designated to testify on the

7 Kent micronite filter and it's beyond the scope and I

8 object to it. She's not testifying on behalf of the

9 corporation on this subject.

10 A. H&V Specialties, I believe, was one of the

11 companies involved with that.

12 Q. Was any document search done of H&V Specialties

13 in the 1984 document collection for responsive

14 documents?

15 A. I was not involved with the actual collection

16 procedures at that point, so I cannot -- I don't

17 know.

18 Q. Who would know the answer to that question?

19 A. Here again, counsel.

20 Q. Tom Moring?

21 A. Tom Moring.

22 Q. Are you aware of whether Lorillard's R&D

23 department during the time period that you have been

24 there has done any research on asbestos as relates to

25 the Kent micronite filter?

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1 A. I'm --

2 I'm not aware.

3 Q. Who would be the best person to ask that  
4 question of?

5 A. Relative to documents related to that, I think  
6 it would be Mr. Moring.

7 Q. During the time period you have been responsible  
8 for documents, have you come across any documents  
9 relating to research on asbestos?

10 A. Yes. In file cartons, yes.

11 Q. You said "in file cartons."

12 A. Stored record.

13 Q. Was that old research or new research?

14 A. I believe it was older. I don't know dates.

15 Q. And is that the reason it was in the stored  
16 files?

17 A. That is correct.

18 Q. When you say "older," what date are you using as  
19 predating? In other words, what's the approximate  
20 time period you think that research was done?

21 MR. MONICA: Again I -- it's beyond the  
22 scope --

23 A. I really --

24 MR. MONICA: Excuse me. It's beyond the  
25 scope of the notice, calls for speculation, but --

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1 Q. Before 1986 when you were in -- put in charge of  
2 the document retention program?

3 A. Yes.

4 Q. Okay. Do you think it was significantly before  
5 1986?

6 A. Sorry?

7 Q. Do you think it was significantly before 1986?

8 A. Yes, I believe it would have been.

9 Q. Is that because there's a certain time lag  
10 between when those documents are removed from the  
11 facility where they're at and sent to -- sent to  
12 storage?

13 MR. MONICA: Object to the form of the  
14 question.

15 Q. Okay. In other words, would R&D or whoever did  
16 the research keep those documents for a fair amount  
17 of time before they at some time decided they didn't  
18 have any further use for them and then send them to  
19 storage?

20 A. Okay. We are still talking about the Kent  
21 micronite filter?

22 Q. Right, asbestos -- and asbestos research  
23 generally.

24 A. It would have been -- as I recall, the files  
25 were extremely old. I do not remember exact dates.

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1 Q. You don't recall -- strike that.

2 Do you recall any research documents relating to  
3 asbestos post-1980?

4 A. Here again, I do not recall those. That's my  
5 present recollection.

6 Q. As you sit here today, do you believe you have  
7 any documents in storage currently relating to  
8 asbestos research that postdate 1980?

9 A. Postdate? No.

10 Q. After 1980.

11 A. I do not believe we do.

12 Q. In 1984 were any outside facilities looked at  
13 for documents? When I say "outside," I mean outside  
14 of Lorillard's business.

15 MR. MONICA: I object to the form of the  
16 question.

17 A. Not to my knowledge.

18 Q. Okay. Just for clarification, were any searches  
19 for documents done at Lorillard's advertising  
20 agencies?

21 A. Not to my knowledge.

22 Q. Were any searches for documents done relating to  
23 individuals outside of Lorillard who were conducting  
24 research on behalf of Lorillard?

25 A. Not to my knowledge.

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1 Q. I'd now like to turn to the 1986 document  
2 collection. What was the reason for that document  
3 collection?

4 A. Basically the types of cases, the amount of  
5 information had broadened and we were updating the  
6 collection of documents. This would -- might have  
7 been for multiple cases. All these collections are  
8 multiple cases. It's not simply one case or --

9 Q. When you say the types of information gathered  
10 were broadened --

11 A. Uh-huh.

12 Q. -- what do you mean by that?

13 A. Well actually I might -- let me retract that  
14 too. I don't want to mislead you there.

15 I believe the '86-'87 collection was an update  
16 for -- when I say "broadened," other cases, that type  
17 of thing, not necessarily types of documents strictly  
18 per se.

19 Q. So you said that in 1984 you were looking for  
20 smoking-and-health-related issues, documents related  
21 to Kent and True, documents related to advertising,  
22 documents related to marketing and documents related  
23 to research. Is that the same type of documents you  
24 were also looking for in '86-'87?

25 A. And I believe in '86 and 87 environmental

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- 1 tobacco smoke documents may have been added.
- 2 Q. Do you mind if we use the acronym ETS when we're
- 3 referring to that?
- 4 A. That's fine.
- 5 Q. Any other subjects that were added in 1986 or
- 6 1987?
- 7 A. Not that I can recollect.
- 8 Q. Okay. What facilities of Lorillard's did --
- 9 were searched for documents in 1986 and 1987?
- 10 A. The advertising/brand management department's,
- 11 corporate executives' in New York office, legal
- 12 department I believe, research and development in
- 13 Greensboro, the research -- operations and research
- 14 area in manufacturing, in the manufacturing plant.
- 15 Q. Were any departments excluded from the --
- 16 A. And the stored records files. We're talking
- 17 active and stored records files.
- 18 Q. Were any departments excluded from your search
- 19 in 1986-'87?
- 20 A. No department is excluded where we believe there
- 21 is relevant information for collection.
- 22 Q. And who makes the original determination of what
- 23 is relevant to search?
- 24 A. Which areas?
- 25 Q. Yes.

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1 A. Basically counsel working with internal  
2 Lorillard employees.

3 Q. You say in 1986-'87 this may have been in  
4 response to numerous lawsuits. Was the Cipollone  
5 lawsuit one of those lawsuits you were still looking  
6 for documents for?

7 A. We don't specify the lawsuit. We simply look  
8 for a wide range of documents, so I'm not sure if  
9 Cipollone was still involved there, but there could  
10 be any number of cases. We are looking for  
11 information that relates to any current obligations  
12 to the court, which we will certainly meet. We are  
13 looking at any potential issues that might --

14 Q. Who initiated the document review in 1986 and  
15 '87?

16 A. As far as saying we were going to do one or --

17 Q. Yes.

18 A. Certainly that would have been in conjunction  
19 with Lorillard counsel, outside counsel, so that we  
20 can meet the needs of litigation.

21 Q. And when --

22 And you participated in the process of what was  
23 going to be searched; correct?

24 A. In 1986-'87, yes, I did.

25 Q. Right. And all my questions right now are going

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1 to be in 1986-'87. What I'm going to try to do is  
2 take these different time periods one at a time.

3 In deciding what to search for, did you receive  
4 requests for production of documents from plaintiffs  
5 and did you have a chance to review those documents?

6 A. Not in that instance.

7 Q. Okay. Did you have any written directive to you  
8 as to what types of documents needed to be searched  
9 for?

10 A. I believe that was communicated verbally.

11 Q. Okay. And it was communicated verbally by  
12 counsel?

13 A. Yes. And I presume again when you say "you,"  
14 you are talking about Lorillard as a company.

15 Q. I am.

16 A. I want to be clear on that.

17 Q. All of my questions go to Lorillard as a  
18 company, and I understand that -- that every now and  
19 then we kind of overlap as to whether we're talking  
20 about your personal knowledge or the company's, but I  
21 think you've been pretty good in telling me when  
22 you're -- when you're speaking only for yourself.

23 A. Yes.

24 Q. But other than that, yes, we should -- you  
25 should assume that what I'm asking for are questions

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1 on behalf of Lorillard at all times.

2 A. Okay.

3 Q. But if there's any point that you're unclear  
4 about that, let me know and we'll clear that up.

5 Okay?

6 A. Okay.

7 Q. How many --

8 How many documents were collected in the  
9 1986-'87 document collection?

10 A. I believe it was in the area of 700,000.

11 MR. FERGUSON: Is that documents or pages?

12 THE WITNESS: Pages.

13 Q. And when you gave me the figure of 1.5 million  
14 for the 1984 production, was that 1.5 million pages  
15 or --

16 A. Yes, it was pages, not documents.

17 Q. Okay. And copies of the 7,000 pages of  
18 documents collected were sent to Shook, Hardy & Bacon  
19 for storage in their archives?

20 A. 700,000.

21 Q. Strike that.

22 Copies of the 700,000 pages of documents  
23 collected in the 1986-'87 document collection were  
24 sent to Shook, Hardy, Bacon for storage in their  
25 archives?

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1 A. Yes.

2 Q. And to the best of your knowledge, are those  
3 7,000 pages of documents collected in the 1986-'87  
4 document collection still in the Shook, Hardy, Bacon  
5 archives in their entirety?

6 MR. MONICA: You meant 700,000.

7 MR. O'FALLON: Oh, I keep -- I keep messing  
8 this up. Let me go back.

9 THE WITNESS: Uh-huh.

10 Q. To the best of your recollection, are the  
11 700,000 doc -- pages of documents collected by  
12 Lorillard in the 1986-'87 document collection still  
13 in Shook Hardy's archives in their entirety?

14 A. Yes.

15 Q. Are those 700,000 pages different documents than  
16 were collected in 1984?

17 A. I --

18 I cannot say that each and every one of them is  
19 different. We may have had a duplicate of a document  
20 in different areas, so I don't know exactly how to  
21 respond to your question.

22 Q. Was --

23 A. Those -- those were additional documents  
24 collected. I can state it that way.

25 Q. An effort was made to not duplicate documents

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1 already collected in the previous 1984 collection;  
2 correct?  
3 A. No, sir.  
4 Q. No effort was made not to duplicate the 1.5  
5 million already collected?  
6 A. If, for example -- we do not look to see -- if I  
7 have a copy in my file and someone else has a copy,  
8 we do -- we copy them and send them to the archive.  
9 Does that clarify?  
10 Q. It does and it doesn't. What I'm speaking of is  
11 the exact same document wouldn't be copied in  
12 1986-'87 if it had previously been copied in 1984;  
13 correct?  
14 A. Oh, I'm sorry, it wouldn't. Thank you. That  
15 clarifies the question. Thank you.  
16 (Discussion off the stenographic record.)  
17 Q. Your clarification was meant to indicate that if  
18 document X existed in Person Y's file, you didn't  
19 check to see whether the same document was in Person  
20 A's file; correct?  
21 A. Correct.  
22 Q. But if document -- if document X had been  
23 collected previously in the 1984 collection, you  
24 didn't pull it out and collect it again; correct?  
25 A. That is correct.

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1 Q. And presumably you had some type of a  
2 demarcation on the document indicating it had been  
3 previously collected; correct?

4 A. That is correct.

5 Q. The next document review I believe took place in  
6 1992.

7 A. Yes.

8 Q. Who was in charge of that document collection?

9 A. I would have facilitated that collection.

10 Q. And what initiated that collection?

11 A. Here again that would have been an update to  
12 prior collection.

13 Q. Do you know whether that was in response to any  
14 specific lawsuit?

15 A. It was not, to my knowledge.

16 Q. Okay. And by the same token, it was also not in  
17 response to any specific requests for production of  
18 documents?

19 A. Not to my knowledge, that's correct.

20 Q. And did counsel again initiate this document  
21 collection?

22 A. Yes.

23 Q. Could you describe for me the scope of the  
24 document collection.

25 A. Basically, as I had said, previous information

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1 that was collected expanded to include any items that  
2 were required for current litigation or pending  
3 litigation or any potential litigation.

4 Q. Let me just go back because I think we're  
5 developing a list here of issues that you were  
6 looking at and I want to make sure that we're clear  
7 as to what additional was done in 1982. Your  
8 previous list included smoking-and-health-related  
9 issues, Kent and True, advertising/marketing  
10 research; and then, in 1986, ETS. What additional  
11 was looked for other than those groups of documents  
12 in 1992?

13 A. I believe there was additional brand information  
14 because the first '84 collection was -- was brand  
15 specific.

16 Q. And when you say "additional brand information,"  
17 what do you mean?

18 A. Advertising/brand management.

19 Q. Was the scope of that collection expanded to  
20 include all brands manufactured by Lorillard?

21 A. I believe it was.

22 Q. And which departments did you search?

23 A. Same departments as previously.

24 Q. No additions to the departments?

25 A. I don't believe we did, no.

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1 Q. And again were any outside facilities searched  
2 such as your advertising agencies or manufacturers of  
3 reconstituted tobacco or manufacturers of filters?

4 A. I don't believe so.

5 Q. Do you know what a flavor house is?

6 A. Yes, I do.

7 Q. Were any flavor houses searched in any of the  
8 collections we've talked about so far, the 1984, 1986  
9 or 1992 collections?

10 A. Not to my knowledge.

11 Q. And as far as you know, none of the sales  
12 offices that we've talked about previously today were  
13 searched during the 1984, 1986 or 1992 searches;  
14 correct?

15 A. There were no searches there?

16 Q. Correct.

17 A. Yes, there -- there were not.

18 Q. How many documents were collected during the  
19 1992 search?

20 A. I'm not a hundred percent sure on that  
21 particular one, as to a number of pages of  
22 documents. I can state for the -- for the record  
23 that up prior to the '95-'96 collection there were  
24 3.5 million documents collected -- pages of documents  
25 collected.

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1 Q. So the 3.5 million is the entire amount  
2 collected over the entire time period --

3 A. Prior to --

4 Q. -- including prior to 1984; correct?

5 A. If there were documents collected prior to 1984,  
6 that would be inclusive.

7 Q. Okay. And again in the 1992 search, were there  
8 any specific departments excluded?

9 A. Here again, we -- we never exclude departments.  
10 We are looking for information in any and all areas  
11 where there might be responsive documents or  
12 documents that we need to collect for responsiveness  
13 review.

14 Q. To the best of your recollection, were there any  
15 asbestos research documents collected in the 1992  
16 search?

17 A. I would not know, sir.

18 Q. Who would know that?

19 A. Counsel.

20 Q. As part of collecting these documents, were the  
21 documents catalogued in any way in 1992?

22 MR. MONICA: Objection to the form of the  
23 question.

24 A. Could you rephrase that for -- I'm not sure what  
25 you mean by "catalogued."

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1 Q. Sure. How did you at Lorillard keep track of  
2 what documents were physically sent, what copies of  
3 documents were physically sent from Lorillard to  
4 Shook, Hardy & Bacon to be stored in the archives?

5 A. In all instances where a document has been  
6 copied, it is demarcated. They're copied, copied  
7 to -- there -- there's a demarcation we know on the  
8 document that it has been copied, and that indicates  
9 that it has -- a copy of that original document has  
10 been forwarded to the archives.

11 Q. Okay. Is there any list kept of the documents  
12 that are copied and sent to Shook, Hardy & Bacon?

13 A. Yes, there is.

14 Q. Was there a list kept of all the documents sent  
15 to Shook, Hardy & Bacon in 1984?

16 A. There is a list that is prepared by counsel that  
17 indicates the documents that are in the archive  
18 collection.

19 Q. But independent of that, Lorillard does not keep  
20 a list of the documents it has collected?

21 A. When you say coll -- when it has collected, this  
22 is an effort between, of course, counsel and the  
23 employees of Lorillard. I -- we do -- I do not have  
24 a list of the documents that are collected for  
25 review.

1 Q. You don't have access to a list?

2 A. No, sir.

3 Q. So it's your testimony that if you want to know  
4 what specific documents have been collected and  
5 copies of those documents sent to Shook, Hardy &  
6 Bacon, you would have to go physically to the files  
7 and check each document to see if it had a mark on  
8 it?

9 A. If I wanted to -- to gain that information  
10 without asking counsel, yes.

11 Q. But counsel doesn't allow you ongoing access to  
12 the list of documents that have been collected from  
13 your own files?

14 A. I've never asked.

15 Q. And you don't maintain a copy of that list  
16 anywhere in your facility?

17 A. No, sir.

18 Q. Not even in computerized form?

19 A. No, sir.

20 Q. So if you want to --

21 If you wanted a list of every document collected  
22 in 1984, you would have to go to outside counsel and  
23 say, "I need you to give me a list of every document  
24 collected in 1984"?

25 A. Yes, sir.

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1 Q. And that's --

2 The same is true for every document included in  
3 1986-'87?

4 A. Yes.

5 Q. And the same is true for the documents collected  
6 in 1992?

7 A. That would be, yes.

8 Q. The Lorillard's in-house lawyers have ongoing  
9 access to that list?

10 MR. MONICA: Objection to the form of the  
11 question.

12 A. I don't know.

13 Q. The next document collection you did was in  
14 1985-'86; correct?

15 A. '95, ninety --

16 Q. I'm sorry, 1995-'96; correct?

17 A. Yes.

18 Q. I've had marked as dep -- as Plaintiff Exhibit  
19 1010 the case management order that was listed in  
20 this -- entered in this case.

21 Have you seen this document previously?

22 A. Yes, I have.

23 Q. When did you first see this document?

24 A. Some time ago. I don't recall a specific date.

25 Q. This document was entered on March 29th of

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1 1995. Do you recall receiving it somewhere around  
2 that time?

3 A. It would have probably been shortly thereafter.

4 Q. Attached to this document as Exhibit A is an  
5 amended order for preservation of records that was  
6 entered in the Castano case. Are you familiar with  
7 that document?

8 A. Yes, I am. Can I quickly look at it and make  
9 sure it is the --

10 Q. Certainly.

11 A. -- same order to which you refer?

12 Q. Is that the order you're familiar with?

13 A. Yes, sir.

14 Q. Do you recall when you received your first copy  
15 of that order?

16 A. It would have been, I believe, May of '95.

17 Excuse me, this is May of '94.

18 Q. Yes.

19 A. Pardon me.

20 Q. What steps did you take to comply with this  
21 order?

22 MR. MONICA: Excuse me. Counsel, you're  
23 asking when she received -- first received a copy of  
24 the case management order or the --

25 MR. O'FALLON: The Castano order. I think

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1 we were clear on that.

2 MR. MONICA: I didn't think you were.

3 THE WITNESS: I wasn't for a moment, but  
4 then I --

5 MR. O'FALLON: I think she clarified it  
6 when she went back to May of 1995.

7 BY MR. O'FALLON:

8 Q. What steps did you take when you first received  
9 a copy of the Castano order?

10 A. When we received that order, basically I went  
11 and visited with employees in R&D. Excuse me, I'm  
12 getting confused. Let me back up.

13 I was not a document custodian at the time of  
14 the -- the Castano order, but I was very much  
15 involved in ensuring that employees in R&D did  
16 preserve their records.

17 Q. Okay. Who was a document custodian in 1994 when  
18 the Castano order was received?

19 A. Richard C. Young.

20 Q. Okay. Were the other document custodians at  
21 Lorillard given copies of the Castano order at the  
22 same time that you received a copy of the Castano  
23 order?

24 A. Yes.

25 Q. Do you know what steps those other individuals

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1 took to conform with the order?

2 MR. MONICA: Again I'm going to --

3 A. Let me --

4 MR. MONICA: I'm going to object. This is  
5 beyond the scope. You're getting into document  
6 retention and/or destruction. It's a separate  
7 deposition, as I understand it.

8 MR. O'FALLON: I'm not getting into  
9 destruction at all. I'm just getting into -- I mean,  
10 I want to know what's retained because if I don't  
11 know what's retained, it's hard to know what was  
12 collected, but I'm not really getting into  
13 destruction at this point.

14 MR. MONICA: Well I understand that  
15 retention is going to be the subject of another  
16 deposition. Is that not right?

17 MR. O'FALLON: I'm not sure about that.  
18 But I'm not getting into specific document  
19 destruction on this. I'm just talking about what she  
20 had and what steps she took to make sure the  
21 documents existing at that time were retained, and  
22 then I'm going to go forward and we're going to talk  
23 about the collection process.

24 MR. MONICA: Well we -- we've designated  
25 her and your notice states collection and production,

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1 and that's what she's being produced for, not  
2 anything else, and I object because you're going  
3 beyond the scope of your notice.

4 MR. O'FALLON: Well, I don't see how you  
5 can separate retention from collection, but despite  
6 that.

7 BY MR. O'FALLON:

8 Q. Did other --

9 MR. MONICA: Well you did so in your notice  
10 and in your letters with that -- that's my objection.

11 MR. FERGUSON: It's the Washington notice,  
12 Counsel, that referred to retention and destruction  
13 of documents and --

14 MR. MONICA: In a separate paragraph, yes.

15 MR. FERGUSON: Yes, and I think you  
16 indicated that would be a different deposition to  
17 Washington.

18 MR. MONICA: Right, and also to Minnesota.

19 MR. FERGUSON: I don't know about that.

20 MR. O'FALLON: I'll check on that with my  
21 people.

22 BY MR. O'FALLON:

23 Q. In any event, what did other individuals, the  
24 other document custodians, do when they received the  
25 Castano order?

1 A. And I -- I reiterate to clarify, when the  
2 Castano order was received, the document custodian  
3 appointed at that time was Richard C. Young.

4 Q. Right.

5 A. He was the only one.

6 Q. Right. And now I'm asking about the other  
7 document custodians. What did they do; do you know?

8 A. I'm not sure we're understanding each other. At  
9 the time the Castano order was issued, the  
10 preservation of documents order was issued in 1994,  
11 Richard C. Young was named. He was the only document  
12 custodian for the company at that time.

13 Q. Okay. Well then I guess we -- we were -- I  
14 thought there were document custodians in various  
15 different departments.

16 A. And those were named in early 1995.

17 Q. Okay.

18 A. There --

19 Q. So they were named subsequent to this order?

20 A. That is correct.

21 Q. So what steps did Mr. Young take when he  
22 received this order in 1994?

23 MR. MONICA: Object to the form of the  
24 question and also as beyond the scope of the notice.

25 A. Meetings were held. Instructions were issued.

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1 Every effort was made to preserve the documents as  
2 required.

3 Q. What type of instructions, written  
4 instructions?

5 MR. MONICA: Same objection.

6 A. I would need to go back and refresh myself, but  
7 my under -- my recollection, my present recollection,  
8 is that there were instructions to employees.

9 Q. Okay. And were those instructions to employees  
10 written by Mr. Young?

11 MR. MONICA: Same objection.

12 A. I believe our CEO, Mr. Young and others had  
13 written memoranda related to the preservation, and I  
14 would need to review those memoranda. I'm not  
15 prepared to discuss those in its entirety today.

16 Q. Have those memoranda been collected as part of  
17 the document production for the Minnesota case?

18 A. I'm sure they have.

19 Q. Have they been produced?

20 A. I would not know.

21 Q. Who would know?

22 A. Counsel.

23 Q. The CEO was not an attorney; correct?

24 A. No.

25 Q. And you believe he did write memos concerning

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1 document retention?

2 MR. MONICA: Same objection, --

3 A. Document --

4 MR. MONICA: -- beyond -- excuse me.

5 THE WITNESS: Sorry.

6 MR. MONICA: Beyond the scope of the

7 notice.

8 A. It would be preserving records.

9 Q. And you believe Mr. Young wrote memos concerning  
10 the Castano order?

11 MR. MONICA: Same objection.

12 A. I believe he did.

13 Q. And Mr. Young is not an attorney; correct?

14 A. No, he is not.

15 Q. Did your document -- when did -- strike that.

16 Did your document collection process in '95-'96  
17 begin before or after you received your first copy of  
18 the case management order in the Minnesota case?

19 A. It was after.

20 Q. Okay. Had any document requests been served  
21 upon you at that point in the Castano litigation?

22 A. Castano litigation?

23 Q. Yes.

24 A. Yes, I believe they had.

25 Q. Had any efforts been taken to collect documents

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1 responsive to the Castano litigation prior to the  
2 March 1995 case management order entered in the State  
3 of Minnesota case?

4 A. As I state again, our document collections are  
5 for a broad spectrum of cases, wide variety of cases,  
6 and potential litigation issues.

7 Q. So is it your testimony that your 1995-1996  
8 document collection was not done in response to any  
9 specific piece of litigation?

10 A. That would be the case.

11 Q. Do you know how many suits were pending against  
12 Lorillard at the time you undertook your document  
13 collection in 1995-1996?

14 A. I know it's multiple, but I do not know the  
15 exact number, no.

16 Q. Can you approximate?

17 A. I really don't think I could -- could be  
18 accurate with that.

19 Q. Was the State of Florida case pending against  
20 you at the time you undertook the document collection  
21 in 1995?

22 A. I believe it was.

23 Q. Okay. The Castano case was pending; correct?

24 A. Yes, it was.

25 Q. The Minnesota case was pending; correct?

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1 A. That is correct.

2 Q. Was the Texas litigation pending at that time?

3 A. Sir, I don't know the dates of the filings. You  
4 know, I'm -- I'm -- of each and every individual  
5 case.

6 Q. But it's safe to say there were numerous cases  
7 pending against you at the time you undertook --

8 A. Yes.

9 Q. -- the document collection?

10 A. Yes.

11 Q. And when you undertook your document collection  
12 that we're now going to turn to in 1995-1996, you  
13 weren't specifically responding to the Minnesota  
14 request; correct?

15 A. Not solely, no.

16 Q. I've had marked as an exhibit, as Plaintiffs'  
17 Exhibit 1011, plaintiffs' first set of requests for  
18 production of documents to Lorillard Tobacco  
19 Company. Are you familiar with this document?

20 MR. MONICA: I request the witness be given  
21 an opportunity to look at it.

22 MR. O'FALLON: Certainly. Can I just get  
23 an answer to whether she's familiar with it, and then  
24 I'll give her all the time she wants.

25 MR. MONICA: She needs to look at it before

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1 she can --

2 A. I'm familiar with the first page.

3 MR. O'FALLON: Okay. Why don't we go off  
4 the record while she looks at it.

5 THE REPORTER: Off the record, please.

6 (Discussion off the record.)

7 MR. O'FALLON: So it's -- so let me just  
8 clarify this.

9 It's your opinion that part of my examination  
10 includes the time it takes her to review the  
11 documents?

12 MR. MONICA: Yes, it is definitely my view  
13 that when you give a witness a document and you ask  
14 her questions about it, part of your examination is  
15 while she looks at it, yes.

16 MR. O'FALLON: And you understand that this  
17 is a document that's been predesignated?

18 MR. MONICA: Yes.

19 MR. O'FALLON: And did she have a chance to  
20 review this document prior to this litigation?

21 MR. MONICA: I've made my statement. Don't  
22 interrogate me.

23 MR. O'FALLON: Okay. Well then I'll ask  
24 the witness.

25 BY MR. O'FALLON:

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1 Q. Have you had a chance to look at this document  
2 prior to today?

3 A. Yes.

4 Q. Is this a document you looked at in preparation  
5 for this deposition?

6 A. Yes.

7 Q. Is it your testimony that having looked at it  
8 previously in preparation for this deposition that  
9 you still need to look at it today in order to  
10 testify about it?

11 A. I just wanted to make certain, sir, it was  
12 complete. My review is complete.

13 Q. Okay.

14 MR. MONICA: The witness has a right to  
15 look at documents you hand her to see what they are.

16 Q. When is the first time you saw this document?

17 A. I believe it was the fall of '95, late summer --  
18 summer or fall.

19 Q. And what were you asked to do with regard to  
20 this document?

21 A. It was supplied to me and I was just  
22 familiarizing myself.

23 Q. Okay. Did you use this document to collect  
24 documents in your 1995-1996 document search?

25 A. This would have been a document that would have

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1 pointed to documents that were responsive, yes,  
2 should be collected.

3 Q. Was this document given to each and every person  
4 who had responsive documents?

5 A. Well first of all, responsive is not determined  
6 by employees. That's determined by counsel.

7 Q. Was this document given to each and every person  
8 who might have documents that would respond to this  
9 request?

10 A. No.

11 Q. How many people at Lorillard received copies of  
12 this document?

13 A. I know that I did. I believe the other document  
14 custodians did.

15 Q. What did you do to comply with the requests in  
16 this document?

17 MR. MONICA: I object on form of the  
18 question.

19 A. During the course of working with counsel in my  
20 role, I would -- I would be familiar with this so  
21 that I would help determine or help assist in any way  
22 relative to stored records or otherwise that would be  
23 applicable.

24 Q. Was a memo sent out to all employees stating  
25 that the following types of documents need to be

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1 collected and then listing the types of documents  
2 that needed to be collected?

3 A. No.

4 Q. Were the employees asked to help in this search  
5 at all?

6 A. Would you define "help."

7 Q. Certainly. For instance, were employees asked  
8 to give you a listing of all documents in a certain  
9 subject area?

10 A. No.

11 Q. Okay. Did the employees themselves look through  
12 any of their own files for documents responsive to  
13 these requests?

14 A. They would have interacted and given input with  
15 the counsel, but no, they were not responsible for  
16 collecting the documents.

17 Q. Okay. Who collected the documents?

18 A. Counsel.

19 Q. And when you say counsel collected the  
20 documents, do you mean counsel collected the  
21 documents by themselves or with input from other  
22 Lorillard employees?

23 A. Perhaps it would be helpful if I would just kind  
24 of give you the -- the information there. The  
25 counsel would interview employees.

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- 1 Q. Which employees?
- 2 A. Employees that it was determined that might
- 3 possibly have documents related to any of the
- 4 information requested.
- 5 Q. How was that first cut made?
- 6 A. Basically management supervision who had
- 7 knowledge of their areas were talked to.
- 8 Q. So counsel initially went around and interviewed
- 9 management supervisors?
- 10 A. Basically.
- 11 Q. Then based on those interviews, counsel would do
- 12 additional interviews with other employees?
- 13 A. Absolutely.
- 14 Q. Do you know if those employees were ever shown
- 15 the Minnesota requests for production of documents?
- 16 A. Individual employees?
- 17 Q. Yes.
- 18 A. No.
- 19 Q. Were any memos given to either the supervisors
- 20 or then the individual employees that said, you know,
- 21 "Here are the following types of documents we are
- 22 looking for" that then set that out?
- 23 A. There was information given to the managers.
- 24 Q. Define what you mean by "information."
- 25 A. It was a statement of the information that would

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1 be applicable for the collection purposes, the broad  
2 collection.

3 Q. And that was a specific document?

4 A. Yes, it was.

5 Q. Who authored that document?

6 A. That document was a result of discussions with  
7 Lorillard employees such as myself, our in-house  
8 counsel, Doherty Rumble Butler and Shook, Hardy,  
9 Bacon attorneys.

10 Q. Who wrote the document?

11 A. Specifically what person?

12 Q. Yeah.

13 A. I do not know.

14 Q. Was it an attorney?

15 A. It would -- yes.

16 Q. Are you sure about that?

17 A. That is my understanding, but I can't -- I don't  
18 know who personally.

19 Q. Do you have a --

20 Do you have a copy of that document sitting in  
21 your file somewhere?

22 A. No, I don't.

23 Q. Are the 134 categories of documents originally  
24 requested by Minnesota contained within that  
25 document?

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1 A. If you're asking enumerated one, two, three,  
2 four?

3 Q. Yes.

4 A. The information -- and I'll say again,  
5 information for collection for the purposes of the  
6 Minnesota case as well as various other cases was a  
7 broad collection, and based on the request here for  
8 production of documents and information in other  
9 cases was the basis for the collection effort.

10 Q. Why don't you go through and enumerate for me  
11 the types of documents that were looked for.

12 A. Research and development documents.

13 Q. Were there any research and development  
14 documents that were subject matters that were  
15 specifically excluded from your search?

16 A. Not to my knowledge other than perhaps raw data,  
17 which I believe was not of interest.

18 Q. Any subject matters?

19 A. No.

20 Q. Okay. What else? What other departments or  
21 what other types of documents?

22 MR. MONICA: Form of the question. Will  
23 you --

24 MR. O'FALLON: Let's go -- I'll go back and  
25 restate.

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1 Q. What other types of documents were looked for?

2 A. Budgets information, brand-specific

3 information.

4 Q. Meaning what?

5 A. Information about promotions for various

6 cigarette brand, I believe profit level information.

7 Q. Okay.

8 A. Information on cigarette components, filters,

9 et cetera.

10 Q. Does that include formula information?

11 A. The initial collection did not include the

12 formula information, as I understand it.

13 Q. Okay. Okay. And that will be the subject of a

14 separate deposition, so I don't need to get into

15 that.

16 What else?

17 A. Sales information.

18 Q. Marketing research?

19 A. Marketing research, absolutely. And I did

20 mention cigarette manufacturing technology, I

21 believe.

22 Q. Okay.

23 A. Leaf purchases information.

24 Q. Legal?

25 A. Yes.

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- 1 Q. Executives?
- 2 A. Well you're asking now for areas; whereas,
- 3 before we were asking --
- 4 Q. Okay.
- 5 A. -- for types of information. If you would -- if
- 6 you want me to switch to departments --
- 7 Q. Well go ahead and -- no, that's okay. You can
- 8 go back to type. Sorry, I was just trying to move it
- 9 along a little.
- 10 Any other types?
- 11 A. And of course there's smoking and health. That
- 12 is always a category.
- 13 Q. Market surveys?
- 14 A. Yes. The collection is so broad I may leave
- 15 something out, but I want to give the general flavor
- 16 of the -- the types of information --
- 17 Q. Right.
- 18 A. -- that were being solved. Research results, I
- 19 believe I mentioned research and development.
- 20 Q. You did.
- 21 A. Okay. Information on records retention.
- 22 Q. Trade associations?
- 23 A. Yes.
- 24 Q. Lobbying?
- 25 A. Yes.

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- 1 Q. Regulatory?
- 2 A. I believe so, yes.
- 3 Q. Anything else you can think of?
- 4 A. I'm sure I'm leaving something out, but
- 5 that's --
- 6 Q. Okay. It's my understanding that when you
- 7 started this process, it was basically started with a
- 8 round of interviews; is that accurate?
- 9 A. That is correct.
- 10 Q. Were there any departments where interviews were
- 11 not conducted of employees?
- 12 A. Not that I can -- can think of.
- 13 Q. Is it fair to state that there were an initial
- 14 round of interviews with management-type individuals
- 15 and then a subsequent round of interviews with people
- 16 who the management folks had identified?
- 17 A. That is correct.
- 18 Q. Were there more than basically two rounds of
- 19 interviews?
- 20 A. Let me clarify there. There was a -- an
- 21 interview with the managers or supervisors. Then the
- 22 managers or supervisors were again interviewed for
- 23 collection purposes. Their employees were
- 24 interviewed for collection purposes.
- 25 Q. Okay. What was the purpose of the initial

1 interview?

2 A. It was to talk with the manager/supervisor,  
3 obtain their assistance and their input in  
4 identifying any employees in their various areas that  
5 might have documents that -- that would need to be  
6 reviewed for collection.

7 Q. Were those one-on-one interviews or was that  
8 more of a group interview?

9 A. The interviews basically were, I believe, a  
10 couple of counsel with the individual. In some cases  
11 it may have been one person, but it was counsel and  
12 the individual.

13 Q. Okay. Again I'm referring to this first round  
14 of interviews that took place.

15 A. So am I.

16 Q. Okay. And then the subsequent interviews were  
17 also one-on-one interviews?

18 A. Or two to one.

19 Q. Well right. When I -- when I'm saying one to  
20 one, I'm not meaning -- one employee, however many  
21 other people.

22 A. Okay. Yes, that's right.

23 Q. What happened after the interviews were  
24 completed?

25 A. Which interview, sir?

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1 Q. All of the interviews. Were any documents  
2 collected before the interviews were completed?

3 A. Not to my knowledge.

4 Q. Okay. So what happened to collect documents  
5 after the interviews were completed?

6 A. As soon as the interview --

7 As soon as the collection interview was  
8 completed, counsel stayed in the office of the  
9 employee or set a time to come back and to go through  
10 their entire files, desk drawers, cabinets, closets,  
11 whatever.

12 Q. Okay. Would counsel go through each and every  
13 piece of paper in that office or just those that  
14 they'd been directed to?

15 A. They would go through everything.

16 Q. Did they only go through everything of those  
17 people they interviewed?

18 A. They also did store -- stored records review. I  
19 don't want to get confused here.

20 Q. Okay. Let's -- let's -- let's set aside for a  
21 second the stored records facilities.

22 A. Okay.

23 Q. Let's just talk about the on-site, in-plant,  
24 in-office --

25 A. Okay.

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1 Q. -- type of review process. Then we'll -- then  
2 we'll talk about what you did with the documents  
3 you've already got collected and stored. Okay?

4 As to the documents that were active in  
5 Lorillard's plant; that is, not set aside somehow in  
6 a storage facility, did the lawyers review every  
7 document in the file of every person interviewed?

8 A. Yes.

9 Q. Okay. Not everyone was interviewed; correct?

10 A. No, they were not.

11 Q. Do you have a list of those people who were  
12 interviewed?

13 A. I -- I know generally who they are.

14 Q. Okay. How many people would that be?

15 A. In Greensboro, about 80 to 90 people were  
16 interviewed, and that's 80 or 90 people or areas.  
17 And when I say "areas," file storage areas within  
18 offices.

19 Q. Okay. How about in New York?

20 A. In New York, it was approximately 100  
21 individuals or areas.

22 Q. Okay.

23 A. In field sales, in the offices there, I estimate  
24 15.

25 Q. Okay. How about at Danville?

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1 A. I included Danville with the Greensboro  
2 numbers.

3 Q. Okay. How many employees total are there in the  
4 Greenville/Danville area for Lorillard?

5 MR. MONICA: Greensboro

6 MR. O'FALLON: I'm sorry,  
7 Greensboro/Danville area.

8 A. There are about 1,500 plant unionized workers.

9 Q. Okay. Now the research and development people,  
10 they're not unionized; correct?

11 A. The salaried professionals are not.

12 Q. Okay. How many salaried professionals are there  
13 in Greensboro?

14 A. I think about 425.

15 Q. 425. And just so I'm clear as to what  
16 distinguishes a salaried professional versus a union  
17 worker, when you started as a secretary, were you  
18 considered a union worker or were you a salaried  
19 professional?

20 A. I was a salaried.

21 Q. Okay. How many salaried professionals are there  
22 in New York?

23 A. Approximately 250.

24 Q. And how many people do you think were associated  
25 with the field offices that we've talked about:

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- 1 Naperville, Duluth, Minneapolis-St. Paul?
- 2 A. I believe the same number that I gave you.
- 3 Somewhere in that 15 to 20 area approximately.
- 4 Q. How many people specifically are there in
- 5 research and development?
- 6 A. There are 91 or 92 salaried people. I'd say
- 7 approximately 90.
- 8 Q. Of those 91 or 92, how many were interviewed?
- 9 A. Virtually all of them I believe were. There
- 10 might have been a few exceptions.
- 11 Q. Was every file in research and development
- 12 reviewed?
- 13 A. I believe they were. I can't think of any right
- 14 now that were not reviewed.
- 15 Q. In addition to being familiar with what is --
- 16 what was reviewed, are you also familiar with what
- 17 was collected out of those files?
- 18 A. I would not be familiar with what was actually
- 19 collected.
- 20 Q. Okay. Who would be?
- 21 A. Counsel.
- 22 Q. So if I wanted to know whether a document was
- 23 specifically collected in 1995 or '96, I'd have to
- 24 ask counsel; correct?
- 25 A. Yes.

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1 Q. You couldn't tell me that?

2 A. I could tell you pretty much from my own area  
3 because I work with my own files, but as far as  
4 someone else's area, no.

5 Q. Is there any Lorillard employee that could give  
6 me that information?

7 A. Not to my knowledge.

8 Q. Did you make any efforts prior to this  
9 deposition to become familiar with what documents  
10 were collected during the 1995 and 1996 --

11 A. To --

12 Q. -- sweep?

13 A. To physically look at documents, become  
14 familiar?

15 Q. To somehow become familiar through looking at  
16 indexes or anything else.

17 A. No, sir, I didn't.

18 Q. So are you not the person -- so let me ask you.

19 Is it true that you are not the person most  
20 qualified to testify as to matters known or  
21 reasonably available to Lorillard concerning the  
22 collection of documents during the 1995 or 1996  
23 collection period?

24 A. I am the most knowledgeable.

25 Q. And yet as you sit here today, you can't tell me

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1 what specifically was collected; right?

2 A. Not each and every document, no.

3 Q. Can you tell me what files were collected?

4 A. Would you define "files." Do you mean --

5 Q. How do you keep documents in the research and  
6 development department?

7 A. In files in our offices.

8 Q. Okay. Were all those files collected in  
9 research and development?

10 A. Collected?

11 MR. MONICA: Objection.

12 Q. Yes, collected.

13 MR. MONICA: Objection, asked and  
14 answered.

15 A. I can say for -- with every degree of certainty  
16 that the files were reviewed. If the files were in  
17 any way with any of the lawsuits or any actions that  
18 we have were possibly related or relevant, they were  
19 collected.

20 Q. How do you know that?

21 A. Because I have visited various offices, I have  
22 talked with people about their file collection, I  
23 have audited the process.

24 Q. What do you mean by "audited the process"?

25 A. Following attorney review of documents,

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1 review -- review of files and visited individuals and  
2 asked them the process that was gone through, was  
3 their office reviewed, et cetera.  
4 Q. And did you do that for every department at  
5 Lorillard?  
6 A. Not each and every department, no.  
7 Q. Which departments did you do the auditing for?  
8 A. I talked with people in advertising and brand  
9 management, finance in New York office.  
10 Q. Did you talk with all the people interviewed up  
11 in the New York office?  
12 A. Each and every one of them individually, no, I  
13 did not.  
14 Q. Did you go through and look at their documents  
15 in the New York offices to see physically what the  
16 lawyers had pulled?  
17 A. What I did do was sit in on collection  
18 interviews as well during the process --  
19 Q. Okay.  
20 A. -- and observe the process.  
21 Q. What's a collection interview?  
22 A. That would be when the -- the one-on-one you  
23 were referring to.  
24 Q. Okay. But that took place prior to the time a  
25 document was actually reviewed; correct?

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- 1 A. That is correct.
- 2 Q. Okay. So you don't know what the lawyer
- 3 specifically did in reviewing the files; correct?
- 4 A. I actually was there and observed attorneys
- 5 reviewing some of the areas while the review was
- 6 going on.
- 7 Q. But not all of the areas?
- 8 A. Not all of the areas, no.
- 9 Q. You weren't there in New York, were you?
- 10 A. I went to New York and observed, yes.
- 11 Q. You went to New York?
- 12 A. Yes.
- 13 Q. So you were in New York and audited that process
- 14 as well?
- 15 A. Yes, I did.
- 16 Q. But you didn't see every file that was reviewed
- 17 by an attorney; correct?
- 18 A. No.
- 19 Q. Did you at any point go through the collected
- 20 set before it was sent out?
- 21 A. The collected set sent out --
- 22 Q. Well I'm sorry. It's my understanding that when
- 23 you guys collect documents --
- 24 A. Uh-huh.
- 25 Q. -- you make copies of them and then send them to

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- 1 Shook, Hardy & Bacon for archive; correct?
- 2 A. That is correct.
- 3 Q. Did you make any effort to go through that
- 4 collected set prior to the time it went out?
- 5 A. No, I did not.
- 6 Q. Did anyone at Lorillard, a Lorillard employee,
- 7 look at that collected set before it was sent to
- 8 Shook, Hardy & Bacon?
- 9 A. Not to my knowledge.
- 10 Q. Well let me just try to understand the process.
- 11 Lawyers would go through files. What would they do?
- 12 Would they mark documents?
- 13 A. Basically they would put the -- the documents in
- 14 a folder, the file, the entire file.
- 15 Q. Okay. They'd put the entire --
- 16 If they decided they wanted to look at a file,
- 17 they would take that file physically out of a file
- 18 drawer and put it in another file?
- 19 A. No. They would take a purple folder --
- 20 Q. Okay.
- 21 A. -- and they would put it around that file.
- 22 Q. Okay.
- 23 A. Then that entire file was sent out for copying.
- 24 Q. And was that file catalogued in any fashion?
- 25 A. Catalogued?

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1 Q. Let's -- indexed.

2 MR. MONICA: Object to the form of the  
3 question.

4 Q. Any of those documents? Do you understand what  
5 I mean by that?

6 A. I'm not sure I do.

7 Q. Okay.

8 A. At what point?

9 Q. Did somebody at Lorillard --  
10 Before it was sent out for copying, did someone  
11 at Lorillard note that this file is going to be go  
12 out -- go out for copying?

13 A. A Lorillard employee, no.

14 Q. No. Attorneys did that?

15 A. Attorneys came in, removed the -- the files and  
16 put them in boxes to be shipped to the copying  
17 center.

18 Q. Okay. And from the copying center the file  
19 would then come back to the Lorillard employee?

20 A. That is correct.

21 Q. The copy of the file would then go where?

22 A. To the archive in Kansas City.

23 Q. Were you present when the legal department was  
24 searched?

25 A. I was present during foldering of the legal

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1 department files.

2 Q. Do you know if all prior litigation files were  
3 identified to be copied and sent to Shook, Hardy &  
4 Bacon?

5 A. I do not know specifically those files, no.

6 Q. Was it your understanding that previous  
7 litigation files had been requested?

8 A. Yes.

9 Q. Do you know what was done to ensure that all  
10 such files were in fact copied and sent to Shook,  
11 Hardy & Bacon?

12 A. I go back to the process. The process was that  
13 the files were reviewed. They were relevant -- any  
14 file relevant for collection, they were collected,  
15 copied, sent to Kansas City for responsiveness  
16 review.

17 MR. O'FALLON: Okay. I'll move to strike.  
18 That's nonresponsive to my question. Why don't you  
19 read my question back one more time.

20 THE WITNESS: Okay.

21 MR. MONICA: Wait a minute. I think it was  
22 responsive to your question. You asked the question  
23 and she answered it. I object to counsel's comment  
24 with regard to the quality of the witness's answer.

25 MR. O'FALLON: I'm entitled to move to

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1 strike and state it's nonresponsive.

2 Can you read back my previous question.

3 (Record read by the court reporter.)

4 MR. O'FALLON: Let me restate that.

5 BY MR. O'FALLON:

6 Q. Do you know that the lawyers physically marked  
7 each and every litigation file for copying to be sent  
8 to Shook, Hardy & Bacon?

9 A. I do not know of my own knowledge. It is the  
10 process.

11 Q. Okay. And you understand you're here on behalf  
12 of Lorillard; correct?

13 A. Yes, I do.

14 Q. Does Lorillard have that knowledge?

15 A. We rely on counsel to conduct this process the  
16 way that we wish it to be conducted, which is to be  
17 thorough, et cetera, and I -- I cannot say that I saw  
18 every one of those files and saw that they were  
19 copied. No, I cannot.

20 Q. So is your answer that Lorillard doesn't have  
21 that information?

22 MR. MONICA: Object to the form of the  
23 question.

24 A. I know of no one in Lorillard that has that  
25 information.

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1 Q. Okay. The only people who have that information  
2 are your outside counsel; correct?

3 MR. MONICA: Again object to the form of  
4 the question.

5 A. The files themselves in a department would be  
6 stamped such that the individual would know that the  
7 file had been copied.

8 Q. So if I were going to get that information from  
9 a Lorillard employee, I'd literally have to depose  
10 200 employees; is that your testimony?

11 A. That's --

12 That's correct.

13 Q. The only other collective source of that  
14 information would be your outside counsel; correct?

15 MR. MONICA: Object to the form of the  
16 question.

17 A. That is correct.

18 Q. What did you specifically do in the stored  
19 documents files as far as collection?

20 A. Basically worked with counsel in determining  
21 those areas that might have documents responsive for  
22 review, or excuse me, that needed to be collected.

23 THE WITNESS: I hate to do this, but I need  
24 to take a quick break.

25 MR. O'FALLON: Oh, yeah, by all means. I'm

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1   sorry.

2                   THE REPORTER:   Off the record, please.

3                   (Recess taken.)

4   BY MR. O'FALLON:

5   Q.   I just want to ask a couple of follow-up  
6   questions on just the physical copying of the  
7   documents.  Once the file was placed in the purple  
8   folder, who would physically then take it out for  
9   copying?

10  A.   The attorneys.

11  Q.   Did the attorneys take it then to a copy  
12  service?

13  A.   They -- the cartons were shipped to a copy  
14  center.

15  Q.   Were the documents computer imaged?

16  A.   They were Xerox copied.

17  Q.   Okay.  At any point in time have the documents  
18  that were collected been computer imaged?

19  A.   I think some of them may, but I -- I don't  
20  know.

21  Q.   But not the entire collection?

22  A.   Not to my knowledge.

23  Q.   Okay.  I ask that because there was a deposition  
24  last week in which that had been done with some, with  
25  another company's documents, and so --

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- 1 A. Oh, okay.
- 2 Q. -- but as far as you know, the -- the -- all the  
3 documents collected during the '95 and '96 collection  
4 period were copied by Xerox; correct?
- 5 A. Yes.
- 6 Q. As far as you know, the entire collection wasn't  
7 placed on some computerized image; correct?
- 8 A. That's my understanding.
- 9 Q. Would the attorney then bring the document back  
10 and place it in the file?
- 11 A. Yes, they would, bearing in mind that the entire  
12 file was -- was removed and the entire file was  
13 replaced.
- 14 Q. Right.
- 15 A. Okay.
- 16 Q. Since we've been referring to these attorneys,  
17 let's just clarify who those individuals were. Which  
18 law firms conducted this process?
- 19 A. Okay. Doherty Rumble Butler, Gordon Arata and  
20 Shook Hardy.
- 21 Q. Was Shook, Hardy & Bacon primarily in charge?
- 22 A. Of the collection process, yes.
- 23 Q. How many documents were collected during this  
24 1995-1996 collection period?
- 25 A. About 2.7 million pages, not documents.

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1 Q. Of those 2.7 million pages, how many of those  
2 pages were taken from active files as opposed to the  
3 cold storage files?

4 A. I don't know the breakdown.

5 Q. Do you have an approximation?

6 A. I'm sorry, I don't.

7 Q. Is it accurate that not every file at Lorillard  
8 was reviewed by attorneys?

9 A. That would be accurate, but I would like to make  
10 a clarification statement there. When we say "every  
11 file," certainly there were areas, human resources,  
12 personnel file folders, et cetera, and examples of  
13 that nature that fell outside the -- the parameters  
14 that would not have been reviewed.

15 Q. Were there any departments in which every file  
16 was actually reviewed?

17 A. Yes, I think there would be. There certainly  
18 would be.

19 Q. Okay. Which departments are those?

20 A. Certainly R&D files, advertising/brand  
21 management, marketing research, legal department,  
22 sales. I believe that covers the -- the major  
23 areas.

24 Q. Were any third parties contacted for purposes of  
25 reviewing their files?

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1 A. What do you mean by "third parties"?

2 Q. Okay. Were any of Lorillard's advertising firms  
3 contacted?

4 A. I don't know.

5 Q. Who would know that?

6 A. Counsel.

7 Q. Would anybody at Lorillard know that?

8 A. Other than in-house counsel, I don't know.

9 Q. Okay.

10 A. I don't think so.

11 Q. Do you believe in-house counsel would have that  
12 information?

13 A. That's a possibility. I do not know for  
14 certain.

15 Q. The only sure source of that information would  
16 be outside counsel; correct?

17 MR. MONICA: Object to the form of the  
18 question.

19 Q. As far as you know.

20 A. As far as I know.

21 Q. Have any of the flavor houses been contacted for  
22 document collection?

23 MR. MONICA: This -- I object to this. It  
24 gets into Category II questions. We have a specific  
25 letter from y'all saying that's going to be a

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1 separate subject.

2 MR. O'FALLON: Right.

3 MR. MONICA: She's not prepared on that.

4 MR. O'FALLON: Okay. That's fine. I  
5 wasn't sure that formula -- I mean, I wasn't sure  
6 that the flavor houses went to formula so that's why  
7 I'm asking, but that's fine.

8 BY MR. O'FALLON:

9 Q. Were any outside researchers contacted?

10 A. Not to my knowledge.

11 Q. Okay. Lorillard does have some contracts with  
12 outside researchers; correct?

13 A. Yes.

14 Q. Is that specifically in the biological area?

15 A. Yes.

16 Q. Are there any other areas in which Lorillard  
17 conducts outside research related to cigarettes?

18 A. The only one that immediately comes to my mind  
19 is a contract we had for services with UNCG,  
20 University of North Carolina at Greensboro, and it's  
21 actually consulting basis relative to reconstituted  
22 leaf.

23 Q. Does Lorillard currently purchase reconstituted  
24 leaf or does it manufacture it itself?

25 A. We purchase it.

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1 Q. And who do you purchase that from?

2 A. I believe --

3 MR. MONICA: I'm going to object. This  
4 is --

5 MR. O'FALLON: It's a foundational  
6 question. I'm then going to ask if there was any  
7 document review done there.

8 MR. MONICA: Yeah, but who -- who Lorillard  
9 purchases leaf from now is beyond the scope of  
10 discovery.

11 MR. O'FALLON: Oh, okay. I'm sorry.

12 BY MR. O'FALLON:

13 Q. Let's go back. Did --

14 When did Lorillard start purchasing  
15 reconstituted leaf from an outside source?

16 A. It would have been at the same time that we  
17 ceased manufacturing it in Danville, which I have  
18 told you earlier I can't remember the exact date. I  
19 think it was -- I think I responded somewhere in the  
20 area of three to five years, and that's -- I just  
21 cannot be definitive on that.

22 Q. So at some point in time during the discovery  
23 period which is covered in this case, Lorillard was  
24 purchasing reconstituted leaf from a third party;  
25 correct?

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1 A. I think so. I'm not sure of the dates. I'm  
2 very sorry, I cannot be definitive on that.

3 Q. Who does Lorillard purchase their reconstituted  
4 leaf from?

5 MR. MONICA: Same objection. Who Lorillard  
6 purchases its leaf from now is not within the scope  
7 of discovery.

8 Q. Has Lorillard changed vendors for its  
9 reconstituted leaf since 1995?

10 A. To the best of my knowledge, we have not.

11 Q. Okay. Was Lorillard purchasing reconstituted  
12 leaf prior to 1995?

13 A. It is my best knowledge or my present  
14 recollection, yes.

15 Q. Okay. And Lorillard was also purchasing leaf  
16 prior to 1994, correct, reconstituted leaf?

17 A. I believe so, sir. I cannot be totally  
18 accurate. I'm not prepared to answer that.

19 Q. Okay. In 1994 or prior to 1994 who did  
20 Lorillard purchase reconstituted leaf from?

21 A. For a while we purchased it, as I believe -- and  
22 this is just general knowledge. I have not studied  
23 this topic and I want to make that very clear.  
24 Kimberly-Clark.

25 Q. Has Kimberly-Clark been contacted for purposes

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1 of document review for this litigation?

2 A. Not to my knowledge.

3 Q. Who would have that knowledge?

4 A. Counsel.

5 Q. Are Kimberly-Clark documents located anywhere  
6 within Lorillard?

7 MR. MONICA: Object to the form of the  
8 question.

9 Q. Are documents from Kimberly-Clark located  
10 anywhere within Lorillard to the best of your  
11 knowledge?

12 A. Without specificity, I know that we have a  
13 long-standing business relationship with them. I  
14 would have to believe that there are some documents.  
15 Topics, et cetera, I do not know.

16 Q. Does that long-standing business relationship go  
17 beyond the reconstituted leaf you've talked about  
18 here?

19 A. Yes.

20 Q. What else does it involve?

21 A. Purchase of papers.

22 Q. Is that papers for cigarette manufacture?

23 A. Yes, sir.

24 Q. Has Kimberly-Clark ever conducted any testing of  
25 cigarette materials for Lorillard?

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1 A. I don't know.

2 Q. Does Kimberly-Clark manufacture reconstituted  
3 leaf to its own specifications or does Lorillard  
4 provide those specifications?

5 A. Sir, I don't know.

6 MR. MONICA: Object as beyond the scope of  
7 this notice here. This witness has not been  
8 designated to testify on that subject.

9 Q. Which department has ongoing contact with --  
10 Which department or departments have ongoing  
11 contact with Kimberly-Clark such that  
12 Kimberly-Clark-related documents would be related in  
13 those departments -- would be retained in those  
14 documents?

15 A. Product development department.

16 Q. Were all the files in the product development  
17 department reviewed?

18 A. To the best of my knowledge, they were, yes.

19 Q. You can't tell me, however, whether all the  
20 documents out of product development were collected;  
21 correct?

22 A. I cannot.

23 Q. We've touched a little bit on asbestos before.  
24 Do you know the last time period when Lorillard used  
25 asbestos in their micronite filters?

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1 A. No, sir, I don't.

2 Q. Do you know the last date on which Lorillard  
3 purchased a micronite filter?

4 A. No, sir, I don't.

5 Q. Which department would have documents relating  
6 to the micronite filter?

7 A. Product development department, possibly basic  
8 research or the research department.

9 Q. I'd now like to turn for a minute to the cold  
10 storage documents. Is that accurate to call them  
11 cold storage? Is there a better word you'd like me  
12 to use?

13 A. We just call it the records center or the stored  
14 records.

15 Q. Can we agree on stored records?

16 A. That's fine.

17 MR. O'FALLON: I'd ask the court reporter  
18 to mark this as the next exhibit.

19 (Jessup Plaintiffs' Exhibit 1012 was marked  
20 for identification.)

21 BY MR. O'FALLON:

22 Q. Ask you to look at Exhibit 1012, which is Bates  
23 stamp number 87931938 to 39. Can you identify that  
24 document for me.

25 A. I can identify the information contained on it.

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- 1 Q. Okay.
- 2 A. I'm not sure I've ever specifically seen this
- 3 particular listing.
- 4 Q. Okay. What --
- 5 What is this a document related to?
- 6 A. This is a document related to the stored records
- 7 for records retention purposes.
- 8 Q. Okay. So this is a document from your
- 9 department; correct?
- 10 A. Yes.
- 11 Q. And this specifically -- this document is a
- 12 listing of the department codes; correct?
- 13 A. That is correct.
- 14 Q. What significance do those department codes have
- 15 in your department?
- 16 A. The code, the department code, is used for
- 17 storing records in the stored records facility.
- 18 Q. Is --
- 19 Is this a list of all the records stored in your
- 20 facility? When I say yours, I'm talking about now
- 21 your specifically Greensboro facility.
- 22 A. This is a list of all the codes as of 4 August
- 23 1995 that we had active within the Greensboro stored
- 24 records center.
- 25 Q. Okay. And again the Greensboro stored records

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1 center is the overall stored records center for the  
2 company; correct?

3 A. Yes, it is.

4 Q. So there isn't another stored records department  
5 up in New York; correct?

6 A. No, sir.

7 Q. In fact, what you would have in your department  
8 are records from New York; right?

9 A. Yes.

10 Q. Okay. Were all of these records --

11 Were all the records stored in these various  
12 locations reviewed for the 1995-1996 document  
13 production?

14 A. No.

15 Q. Okay. Would you just go through and tell me  
16 which groups were not reviewed.

17 A. Okay. Bulova, cafeteria.

18 Q. As a matter of fact, if you'd like, I can give  
19 you a pen, and why don't we have you mark a check by  
20 those not reviewed, okay, and we'll just have that  
21 for the record.

22 A. You would like me to check those which were  
23 not?

24 Q. Which were not reviewed. I'm doing that because  
25 I assume it's a smaller list than what was -- was

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1 reviewed. Is that accurate?

2 A. I think so.

3 Q. Okay. And as you mark each one, would you just

4 state out loud what you're marking.

5 A. Okay. Bulova, cafeteria. Also before we begin

6 this, let me tell you, too, that RTLs were reviewed;

7 the records transfer list containing what's in these

8 records were reviewed --

9 Q. Okay.

10 A. -- for the collection. When we say it was not

11 reviewed, I do not wish to leave the impression that

12 they were not considered for review.

13 Q. Okay. Well what your testimony is then is that

14 as to the ones that you're marking right now, the

15 physical documents contained within that section were

16 not reviewed; correct?

17 A. That is correct.

18 Q. Why don't you go ahead and state those as you're

19 doing it.

20 A. Oh, I'm sorry. Bulova, cafeteria, Lorillard

21 corporate accounts payable, Lorillard cashier,

22 credits and collections. I'm uncertain on customer

23 service quite frankly.

24 Q. Okay. Why don't we circle customer service

25 then.

1 A. Danville personnel, fleet. I'm not sure on  
2 accounting records either. Training, manufacturing  
3 training, personnel Greensboro. I don't believe GPIC  
4 was.

5 Plant engineering I do not believe was either.  
6 Payroll, traffic.

7 Q. What is traffic?

8 A. Traffic is freight bills --

9 Q. Okay.

10 A. -- of when we shipped, the process of shipping  
11 out cigarettes, payment of that.

12 I believe HIST was reviewed.

13 Q. Let's just ask about that. What would  
14 historical material be?

15 A. It would be -- there's a booklet contained in  
16 those boxes of 200th anniversary of Lorillard. It's  
17 memorabilia-type stuff or kind of a history of the  
18 company from the standpoint of published documents.

19 Q. Okay.

20 A. Like there's a -- a book that employees got at  
21 that point.

22 Q. Was that a relatively small file to the best of  
23 your recollection?

24 A. I think there were -- I think there are two  
25 boxes in that whole category containing multiple

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1 copies of the same thing, so --

2 I don't believe IR was checked or collected

3 from.

4 Q. IR. What is -- what is Informer?

5 A. Informer is the corporate magazine.

6 Q. Okay.

7 A. And those were certainly reviewed. I do know

8 that.

9 LAP was not. I do not believe LCA was. LCU was

10 not. I don't think LIA was. LINS I'm not sure.

11 Q. Okay.

12 A. LLEGL, the Loews legal -- the Westborough

13 Greens, that was a particular case that related to

14 our parent company, so that wasn't.

15 Q. What did that involve?

16 A. It was a real estate firm or something.

17 Q. Not in any way cigarette related; correct?

18 A. No, sir.

19 And LLEG is not either. I do not believe either

20 of those -- those were. The hotel, the next one,

21 LMCH, was not reviewed, was not collected from. LPER

22 was not.

23 Q. And again these are the historical documents

24 that were sent to you after the sale of the

25 Louisville plant --

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1 A. Yes.

2 Q. -- to National; correct?

3 A. Yes. I'm not sure about LPLEN. LTA was not. I  
4 don't think LTRF was. Any of those that -- that were  
5 looked at, they might have been looked at on a random  
6 basis as well, you know, random sampling to ensure  
7 that we were being complete. I simply can't remember  
8 about those.

9 The Louisville returned goods would have to do  
10 with the financial end of things. Plant closing  
11 would have to do with the actual closing of the plant  
12 and employees' rights, et cetera. I -- I'm not clear  
13 on those.

14 Q. Why don't we just go ahead and put a circle  
15 around those. And you think there was a process in  
16 place where occasionally you would go ahead and do a  
17 random sampling of a group of documents that you'd  
18 otherwise decided not to look at initially?

19 A. Absolutely.

20 Q. And these may have fallen in that category;  
21 correct?

22 A. They -- they may have. I'm --

23 LWPUR I do not believe was checked. OD and ODG  
24 would not. PERS would not have been applicable,  
25 PERSA, PYR. I don't believe sales accounting would.

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1 SPERS. Tax I'm unsure of. TREA was not.  
2 That's my best recollection.  
3 Q. Okay. Thank you for going through that.  
4 A. Well I just want to say that again that the RTLs  
5 were reviewed and where appropriate or any data at  
6 all existed we were very conscientious in going  
7 through those cartons and having those cartons  
8 reviewed.  
9 Q. Could you just look at the first page again.  
10 A. Yes.  
11 Q. Did --  
12 Did you search LWCAS or were those on your  
13 unknown list?  
14 A. I don't believe we did, and I may have skipped  
15 over it when I was going through.  
16 Q. Okay. Do those department codes that are listed  
17 on this document also correspond with the departments  
18 that are actually active at Lorillard's as we sit  
19 here today?  
20 A. Yes, they are.  
21 Q. And basically those that have been left unmarked  
22 not only -- you looked at the stored documents for  
23 these departments; correct?  
24 A. Me personally looking at each of them?  
25 Q. Someone did?

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1 A. Yes.

2 Q. Lorillard did.

3 A. Lorillard. Here again we're --

4 Q. Yeah. Lorillard looked at the stored documents  
5 for the document codes that we have not made any  
6 marks on; correct?

7 A. To the best of my recollection. This is a  
8 lengthy list, and if I'm inaccurate, I apologize, but  
9 that's my very best recollection.

10 MR. MONICA: I'm going to object to a  
11 question I didn't have a chance to, but the question  
12 was do these departments correspond with the active  
13 departments at Lorillard. Now all these departments  
14 on here, I object to that as being vague and  
15 confusing. Some of these pertain to Loews. They're  
16 not all --

17 MR. O'FALLON: Okay. Well let me -- let me  
18 go back for a clarifying question.

19 Q. Do all of the departments that are listed here  
20 next to a division that's stated as Lorillard  
21 correspond to current Lorillard departments?

22 A. Of course Louisville does not, Louisville plant  
23 does not. That immediately springs to my mind.

24 Q. Right. I think we've already clarified that.

25 So excluding Louisville and excluding the divisions

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1 that are not denoted Lorillard on this document, are  
2 the remaining departments current Lorillard  
3 departments?

4 A. I just want to go through them before I answer  
5 your question. In fact I was listening to you. I'm  
6 going to quickly -- very quickly start at the top  
7 again.

8 As best I can quickly determine, these are  
9 active areas or departments.

10 Q. Thank you. My next question I can't resist  
11 because it's so rare that a law firm actually gets an  
12 in-house corporate department -- department named  
13 after it, so what's in the Shook, Hardy & Bacon  
14 files?

15 MR. MONICA: Object to the comment of  
16 coun -- counsel, to the form of the question.

17 MR. O'FALLON: Let's just say it won't be  
18 anything I'll put in at trial. Okay, Counsel?

19 A. My recollection is that there were some records  
20 that we had made copies of and counsel also had  
21 copies of, and we simply kept the duplicate copy in  
22 Greensboro, and I can't remember why.

23 Q. Do you know what kind of records those are?

24 A. They would have been Lorillard records that were  
25 copied. They were like duplicate copies, I believe.

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1 Q. Okay. The reason I ask is I -- I have looked at  
2 some of your other document files that we're going to  
3 get into in a second and, you know, I noticed for  
4 instance there's Shook, Hardy, Bacon invoices. It's  
5 not Shook, Hardy, Bacon invoices you're talking about  
6 there; right?

7 A. Not to my recollection, my present recollection,  
8 no.

9 Q. Okay. So these are documents copied from  
10 Lorillard that for whatever reason are also being  
11 re -- and sent to Shook Hardy that for whatever  
12 reason are also being retained at Lorillard?

13 A. Yes, and I don't remember the specific  
14 instance.

15 Q. Okay. Do you know how many boxes of those there  
16 are?

17 A. Not very many, if I recall. A handful.

18 Q. And what's that last denotation, "appen"?

19 A. I think that must be part of the database.  
20 There -- there's an append at the end of the database  
21 on the instruction. I do not know what that means.  
22 It is -- it has no meaning to me from the records  
23 center standpoint.

24 Q. I've also made some other copies from what I  
25 believe to be, as best I can tell when I was

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1 reviewing this document, part of your record  
2 retention system and listing by boxes, and so I'm  
3 going to mark some of those now and just ask you a  
4 few questions about those. And in part I'll need to  
5 identify them because again I said that's what they  
6 appeared to me to be, but since you're the expert,  
7 we've got you here, and I'll -- I'll ask you.

8 (Jessup Plaintiffs' Exhibit 1013 was marked  
9 for identification.)

10 BY MR. O'FALLON:

11 Q. Plaintiffs' Exhibit 1013 is a document Bates  
12 stamp numbered 87931940 through 942. Do you  
13 recognize that document?

14 A. Yes.

15 Q. What is this document?

16 A. This document is the computerized version of our  
17 records retention system, the first bit of it.

18 Q. And I believe that we were provided an entire  
19 list of all the documents in your record retention  
20 storage. What I've done here is copied pieces that I  
21 have particular interest in so we wouldn't belabor  
22 going through what is really a rather large  
23 document.

24 These relate to the advertising department; is  
25 that correct?

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1 A. That is correct.

2 Q. And would this reflect that there are -- I was  
3 going to say 127 boxes, but appears to be just a  
4 little bit over 127 boxes relating to the advertising  
5 department in the stored files?

6 A. As of 4 August '95, that was our updated  
7 listing.

8 Q. Right. When did you conduct your actual review  
9 of the stored files?

10 A. That would be -- the actual review?

11 Q. Yes.

12 A. Would have been the first two weeks of November  
13 '95.

14 Q. Do you think that there was a list generated  
15 after this August 4th, 1995 list? Do you generate  
16 these on an ongoing basis?

17 A. We generate them on an as-needed basis.

18 Q. Based on what information you have available in  
19 your position as the head of this department, do you  
20 believe this is a fairly accurate representation of  
21 what was available for review when the review was  
22 conducted in November of 1995?

23 A. Yes, I would believe that to be the case.

24 Q. Who conducted that review?

25 A. The review of stored cartons was performed by

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- 1 counsel.
- 2 Q. Okay. Did you conduct any of that review?
- 3 A. Myself?
- 4 Q. Yes.
- 5 A. No, sir.
- 6 Q. Do you know what was copied out of the stored
- 7 boxes?
- 8 A. No, sir, I do not.
- 9 Q. Again, counsel is the only people who know what
- 10 was actually collected out of the stored boxes?
- 11 A. That would be accurate.
- 12 Q. Is it possible to tell on the stored documents
- 13 themselves whether they've been collected in previous
- 14 litigation; in other words, whether they're part of
- 15 the archive already?
- 16 A. By indication of whether or not they are marked
- 17 "copied" or designated on the face of the document,
- 18 yes.
- 19 Q. And I presume counsel knew that before they
- 20 undertook review; correct?
- 21 A. Yes.
- 22 Q. The only people who could tell me what's
- 23 actually been copied out of the advertising files
- 24 would be counsel; correct?
- 25 A. That is correct.

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- 1 Q. Would that be in-house counsel or outside  
2 counsel?
- 3 A. Outside counsel.
- 4 Q. Specifically who would I ask if I wanted to know  
5 that information?
- 6 A. I'm trying to -- to think of the most  
7 appropriate person. I'm assuming it would be Claire  
8 McCurdy, or I'm thinking that would be the accurate  
9 contact person.
- 10 Q. Were the stored files reviewed by a team of  
11 lawyers?
- 12 A. Yes, they were.
- 13 Q. Was Ms. McCurdy the head of that team?
- 14 A. She was on that team.
- 15 Q. Was she the most senior attorney on that team?
- 16 A. By "most senior" --
- 17 Q. Most years of experience.
- 18 A. I honestly don't know the number of years  
19 experience.
- 20 Q. Was she the head of that project as far as you  
21 knew?
- 22 A. She was a liaison to me.
- 23 Q. And no record was kept of the documents actually  
24 collected out of the stored files, correct, by  
25 Lorillard?

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1 A. By Lorillard, no.

2 Q. Were the files somehow, though, marked so that  
3 if you were to go back into your files one more time  
4 you could tell that those documents were reviewed  
5 during the 1995 document review?

6 A. I would not be able to tell if they had been  
7 reviewed. I would certainly be able to tell if they  
8 had been collected by the designation --

9 Q. I'm sorry.

10 A. -- on the face of the document.

11 Q. Well okay. That's what I meant, and I  
12 misstated.

13 Again there was a different designation made on  
14 the face of these documents that were actually  
15 collected during this review process; correct?

16 A. That is correct.

17 Q. So you could tell me actually every document  
18 that was collected, but to do so, you'd have to  
19 literally go back through it document -- document by  
20 document, box by box?

21 A. Yes. Yes, literally we would. At Lorillard we  
22 would, but I would like to state, for the record,  
23 that approximately 1.6 million pages of documents  
24 have been produced.

25 Q. From that collection?

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- 1 A. From the entire archival collection. 1.6  
2 million have been produced, as I understand it.
- 3 Q. From your stored documents?
- 4 A. From the archival collection.
- 5 Q. I'm sorry, I'm -- I'm now confused. Are you  
6 talking about have been produced from the Shook Hardy  
7 collection?
- 8 A. Yes.
- 9 Q. Okay. Yeah, I know that information.
- 10 A. Okay. Well I just --
- 11 Q. Yeah.
- 12 A. -- was trying to point out the magnitude here.
- 13 Q. Well yeah, I mean, I understand that counsel's  
14 produced a lot of documents. And I'm not really here  
15 to talk necessarily about volume. I'm mostly here to  
16 talk about quality, but I understand that  
17 information.
- 18 But you yourself don't know what documents have  
19 been produced; right?
- 20 A. No, I don't.
- 21 Q. And you yourself don't know what box --  
22 documents were collected for production; correct?
- 23 A. Individual documents?
- 24 Q. Yes.
- 25 A. No.

1 Q. The most you can tell me is generically what has  
2 been reviewed; correct?

3 A. That is correct.

4 Q. How many doc -- I think I've asked you this  
5 already and since you brought up the number, though,  
6 I just want to make clear on this.

7 Do you know how many doc -- strike that.

8 Do you know how many pages of documents were  
9 collected out of your stored files?

10 A. No, sir, I don't.

11 Q. So Lorillard didn't even keep a rough number of  
12 how many documents were being collected out of its  
13 various files; correct?

14 MR. MONICA: Object to the form of the  
15 question.

16 A. Not to my knowledge.

17 Q. As far as you know, all the advertising boxes  
18 were looked at?

19 A. Yes.

20 Q. There's a destruction date listed on this  
21 document.

22 A. Yes.

23 Q. And I just want to know whether those  
24 destruction dates were all kept. For instance, I'm  
25 just -- you know, and this is just a matter of

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1 background. You've got a box, number 12, that's in  
2 storage, and yet it had a 1985 destruction date. Can  
3 I assume by the fact that it's here that there was no  
4 destruction on that box?

5 A. That is correct.

6 Q. Okay. So when this says "DESTRUCTION DATE,"  
7 this doesn't mean the date documents were actually  
8 destroyed; correct?

9 A. No, it does not.

10 Q. What this refers to is the date documents were  
11 slated to be destroyed; right?

12 A. The original, yes.

13 Q. And these dates have all been suspended --  
14 okay.

15 And if the box is still here, that would mean  
16 that these destruction dates have been suspended;  
17 correct?

18 A. That is correct.

19 Q. Under "BOX LOCATION" if it says "DES," does that  
20 mean actually those were destroyed?

21 A. That is what our indicator implies, yes.

22 Q. Okay. So do you just keep an empty box back  
23 there or no box at all or does that mean the entire  
24 box was destroyed? Does that mean part of the box  
25 was destroyed?

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1 A. When you see a DES indication, it means the  
2 entire carton was destroyed.

3 Q. Okay. And so there is no box 47 anymore;  
4 correct?

5 A. According to this listing, that is correct.

6 Q. When the document location says "KC," what does  
7 that mean?

8 A. Kansas City.

9 Q. Okay. Are these documents that are back in the  
10 archives?

11 A. No, sir.

12 Q. Where are those documents being stored at?

13 A. These boxes that are indicated KC mean they are  
14 in the hands of our attorneys for use in litigation.

15 Q. Independent of the archives?

16 A. Independent of the archives.

17 Q. So there are a certain class of documents that  
18 are physically stored at Shook Hardy that are not  
19 part of the archives; correct?

20 MR. MONICA: Object to the form of the  
21 question.

22 A. At this point in time, they were in Kansas  
23 City. This is dated 1995. Subsequently have -- we  
24 have them back in the records center.

25 Q. Is it a standard business practice at Lorillard

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1 to send entire boxes of documents to Kansas City for  
2 their use?

3 A. On an add -- on an add -- as-needed basis.

4 Q. Do those attorneys have to check those out just  
5 like any Lorillard employee would have to?

6 A. Yes, sir.

7 Q. And a record's kept of that?

8 A. Yes, sir.

9 Q. Have all those records been produced?

10 A. The entire record center retention, RTLs,  
11 everything, has been produced. Everything that we  
12 had at the time was produced.

13 Q. And when you say "produced," you're talking  
14 about produced to us in the Minnesota litigation;  
15 correct?

16 A. Yes, sir.

17 Q. So somewhere I should be able to find some  
18 checkout forms for Shook, Hardy & Bacon for  
19 advertising boxes one and two; correct?

20 A. I believe that would be there, yes.

21 Q. And I should --

22 And what would that checkout form have on it?

23 A. It would say -- it's a records loan form and it  
24 would say the date that it was shipped.

25 MR. FERGUSON: I'm confused. I thought the

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1 witness testified she didn't know which documents  
2 were actually produced to Minnesota; she just knew  
3 what had been selected.

4 THE WITNESS: It is my understanding -- I  
5 do not know all of the documents, but since I work  
6 with the records center, it was my understanding that  
7 the records center system documents were produced  
8 early on.

9 MR. FERGUSON: Thank you.

10 Q. Are those the only documents you know for  
11 certain have been produced?

12 A. That's the only thing I can think of at this  
13 moment. I can't think of anything else.

14 MR. MONICA: You know, I -- I object. I  
15 think we may be confusing collection with  
16 production.

17 MR. O'FALLON: No, I don't think on this  
18 instance we are. I asked her specifically whether  
19 these documents were produced in the Minnesota  
20 litigation.

21 Q. And they have been; correct? You know that  
22 those documents were shipped to plaintiffs' counsel?

23 A. That was my understanding.

24 Q. Okay. So I don't think we are confused. You're  
25 not confused about what produced means as opposed to

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1 collected; right?

2 A. No.

3 Q. And the only documents you actually know that  
4 were produced were these groups of documents we're  
5 now talking about? Those are the specific documents  
6 discussing the document retention policies at  
7 Lorillard; correct?

8 A. That is my present recollection. I don't think  
9 I'm confused.

10 Q. Were the documents listed here box location KC  
11 sent to Shook, Hardy & Bacon for review for purposes  
12 of production?

13 A. They would have been sent for use in litigation.

14 Q. Do you know whether they were reviewed while  
15 they were there?

16 A. I'm certain they were. That was the very  
17 purpose of sending them.

18 Q. Okay. So the purpose of sending them was so  
19 they could be reviewed and any documents taken --  
20 that were needed be taken from those boxes; correct?

21 A. For use in litigation?

22 Q. Correct.

23 A. Yes.

24 Q. And you don't have any knowledge as you sit here  
25 today of what documents were actually taken from

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1 those boxes; correct?

2 A. No, I do not.

3 Q. Are you sure that all the original documents  
4 were returned to Lorillard?

5 A. It is my best knowledge, yes.

6 Q. Do you have any system for checking that?

7 A. We would take the -- the records loan form --  
8 the loaned records form out of the file when the --  
9 the -- they're returned.

10 Q. I guess my question is: Does Lorillard have any  
11 mechanism in place for ensuring that documents that  
12 are taken from their stored files are returned in  
13 their entirety to the stored files?

14 A. If someone removes a file, a file for copying, a  
15 loaned record, a record -- a loaned records form is  
16 done, excuse me, and that stays in a file until such  
17 time as the records are returned. They are replaced  
18 by my staff in the cartons or the cartons are  
19 returned, and then we check that off and change the  
20 location.

21 Q. Is there some kind of a listing of each and  
22 every file or document in each box?

23 A. The records transfer list that is prepared by  
24 the departments enumerates the file headings. It  
25 certainly does not give every document, but file

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1 headings are listed on the records transfer lists.

2 MR. O'FALLON: Do you want to take a  
3 break?

4 MR. MONICA: Yeah. The witness needs to  
5 eat something regularly --

6 MR. O'FALLON: That's fine.

7 MR. MONICA: -- because of her medical  
8 condition, so --

9 MR. O'FALLON: That's more than fine.  
10 Let's go ahead and take a break.

11 THE REPORTER: Off the record, please.

12 (Recess taken.)

13 (Jessup Plaintiffs' Exhibits 1014 through  
14 1016 were marked for identification.)

15 MR. MONICA: Before we start, the witness,  
16 because of her medical condition, gets very tired in  
17 the afternoon and she needs to get something in her  
18 stomach, which we did. I appreciate the break.

19 THE WITNESS: Thank you.

20 MR. MONICA: We're going to need to stop  
21 again in about 45 minutes, and we've agreed to work  
22 till 5:30 and that's fine.

23 The witness did mention to me she'd like to hear  
24 the last series of questions and answers read back to  
25 make sure she has correctly stated what she knows to

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1 be the facts, so I'm going to ask the court reporter  
2 to read back the questions and answers starting with  
3 4:41:02.

4 (Discussion off the stenographic record.)

5 (Testimony at page 207, line 12, to page  
6 208, line 16, was read by the court  
7 reporter.)

8 A. That's where I'd like to -- to clarify. The  
9 information that I was speaking of was within my  
10 department. The records center trans -- records  
11 transfer listings I know was copied and produced. I  
12 was not referring to any document listed on those  
13 records transfer lists. Okay? I just --

14 Q. I understood that.

15 A. Oh, okay. I just wanted to clarify that because  
16 I wanted to be sure that we weren't mixing our  
17 metaphors.

18 Q. No, I understood that because I've actually went  
19 through the documents that you produced, so I  
20 understood what you were --

21 A. Okay.

22 Q. -- what you were talking about and that's much  
23 of what I've designated, and I think if you've looked  
24 through the documents I've designated, that's true,  
25 that a lot of those are the RTLs you've just

1 referenced; correct?

2 A. Yes, sir.

3 Q. Okay. And those are documents that came  
4 specifically from your files; correct?

5 A. Right, and I did know that they were produced.  
6 Those are the only documents that I know was  
7 produced.

8 Q. It's my recollection there were basically two  
9 boxes of those documents that were produced. Does  
10 that coincide with your recollection?

11 A. Yes, it does. I just wanted to clarify that.  
12 Thank you. Because I wanted to make sure I was  
13 accurate.

14 Q. That's fine. No, that's fine, and that's what I  
15 understood it to be, and again that's in large part  
16 because that's what I've reviewed and reviewed in  
17 preparation for this deposition in particular.

18 A. Okay.

19 (Discussion off the stenographic record.)

20 BY MR. O'FALLON:

21 Q. And just so we can clarify the record, that two  
22 boxes of documents is the only two boxes of documents  
23 you know about being actually produced in the  
24 Minnesota litigation; correct?

25 A. That is correct.

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1 Q. I'd like you to turn to the exhibits I've put in  
2 front of you. These are again parts of the Lorillard  
3 record retention system, and the first one I marked,  
4 which has been marked as Plaintiffs' Exhibit 1014, is  
5 a document Bates stamped 87932009. Do you have that  
6 document in front of you?

7 A. Yes, I do.

8 Q. And do you recognize that document?

9 A. Yes, I do.

10 Q. What I'd specifically like you to look at is the  
11 listings for GEXM. What does that denote?

12 A. Greensboro executive management.

13 Q. Is it true that four boxes, box three, four,  
14 five, and six, are no longer in existence?

15 A. That would be indicated by this listing, yes.

16 Q. And it appears that they were destroyed prior to  
17 the time you did the '95-'96 document review; is  
18 that correct?

19 A. Yes, sir.

20 Q. And based on your previous testimony, it's my  
21 understanding that that entire box would be gone, not  
22 just parts of the box; correct?

23 A. That is correct.

24 Q. All the other documents relating to executive  
25 management in Greensboro were available for review at

1 the time of the '95-'96 review; correct?

2 A. According to this listing, that is correct.

3 Q. Okay. And do you believe this listing's

4 accurate?

5 A. As accurate as it can -- can be, yes.

6 Q. And I believe it's your testimony that this is a

7 list that was fairly close to the time that you

8 actually conducted the review in November of 1995;

9 correct?

10 A. It's dated August 4, 1995.

11 Q. And you said that this list is generated on an

12 as-needed basis; correct?

13 A. Yes, sir.

14 Q. I take it this is a generation of a computer

15 list; correct?

16 A. Yes, it is.

17 Q. And on a day-to-day basis you would actually use

18 the computer, not the physical list itself, to

19 perform your tasks?

20 A. That would be accurate, yes.

21 Q. Can you tell me what documents were collected

22 from the boxes listed under GEXM?

23 A. No, sir, I cannot.

24 Q. Can you tell me what documents were produced

25 from the documents collected from the boxes listed

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1 under GEXM?

2 A. I could not.

3 Q. And the only people who could tell me that would  
4 be outside counsel; correct?

5 A. Yes, sir.

6 Q. The next document I've put in front of you has  
7 been marked as Plaintiffs' Exhibit 1015, and it's  
8 Bates stamp numbered 87932129 through 135.

9 Do you recognize that document?

10 A. Here again I recognize this as a printout from  
11 the records center retention system.

12 Q. And this is a printout of all the boxes that are  
13 in stored files for in part the research department;  
14 correct?

15 A. Yes.

16 Q. It appears there's some 300-odd boxes from the  
17 research department; correct?

18 A. That is correct.

19 Q. None of the boxes from the research department  
20 have the designation DES in the box location;  
21 correct?

22 A. That is correct.

23 Q. There is one with a designation RES. Would that  
24 mean that it's been checked out by research?

25 A. I believe that would be the case, yes. I'm --

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1 I've not seen that designation before, but that  
2 would -- that would make sense.

3 Q. Okay. Can you tell me whether or not all of  
4 these documents in these boxes from research were  
5 reviewed as part of the 1995-1996 document review  
6 process at Lorillard?

7 A. I can state that all of the RTLs would have been  
8 reviewed, records transfer list. It is my belief and  
9 my present understanding that all of these boxes  
10 would have been reviewed in this collection.

11 Q. You cannot tell me what documents were marked  
12 for collection from these research boxes; correct?

13 A. I could not, no, sir.

14 Q. Nor can you tell me what box -- what documents  
15 were actually produced from this research collection;  
16 correct?

17 A. I cannot.

18 Q. Okay. Also on page 134 there's reference to the  
19 research library.

20 A. Yes.

21 Q. Does the research library contain articles only  
22 from outside sources?

23 A. The library collection?

24 Q. Yes.

25 A. No.

1 Q. Does it also include private documents?

2 A. Private documents?

3 Q. Documents not in published -- in published  
4 literature.

5 A. Yes.

6 Q. Okay. What type of unpublished documents does  
7 it include?

8 A. It would include Lorillard reports generated by  
9 Lorillard employees. It would include publications  
10 of our employees in external sources, purchased  
11 books, magazines, journals.

12 Q. Would it include any unpublished research from  
13 other tobacco companies?

14 A. Not to my knowledge.

15 Q. Would it include unpublished research from  
16 contract researchers?

17 A. I don't believe so, no.

18 Q. In these boxes department code RLIB are there  
19 actual articles? Are there card catalogs? What's in  
20 them?

21 A. I don't know the contents of each and every one,  
22 but I believe these -- these included reports,  
23 reprints of article -- published articles. It could  
24 be a variety of anything that the library holds.

25 Q. You still have an active, ongoing library;

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1 correct?

2 A. Yes, we do.

3 Q. And so this would be information that the  
4 librarian of that research library has determined is  
5 no longer needed in the library for active, ongoing  
6 use?

7 A. That is correct.

8 Q. Do you know whether the entirety of those files  
9 were searched?

10 A. Here again the RTLs would have been reviewed,  
11 and it is my belief that all of these would have been  
12 reviewed.

13 Q. And when I say "reviewed," I mean on a  
14 document-by-document basis. Is it your understanding  
15 that all the documents in all those boxes were  
16 reviewed?

17 A. That is my belief, yes.

18 Q. And you base that belief on what?

19 A. My basic knowledge at the time, the categories  
20 of records that I know that were going to be  
21 reviewed, my conversations and input to counsel.

22 Q. You cannot tell me what documents out of those  
23 boxes were marked for copying; correct?

24 A. No, sir, I cannot.

25 Q. You cannot tell me what documents out of those

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1 boxes were actually sent to Shook, Hardy & Bacon;  
2 correct?

3 A. If they were copied, they were sent to Shook,  
4 Hardy & Bacon. I'm not certain --

5 Q. Okay. And just to clarify, so you can't tell me  
6 what was copied and sent to Shook, Hardy & Bacon;  
7 correct?

8 A. No, sir.

9 Q. And you can't tell me what Shook, Hardy & Bacon  
10 actually produced out of that collection of  
11 documents; correct?

12 A. No, sir.

13 MR. MONICA: I want to object to the form  
14 of the question in that there were other firms  
15 besides Shook Hardy who participated in the  
16 production and she's testified to that.

17 THE WITNESS: Yes.

18 Q. With that clarification, you cannot testify as  
19 to what documents your outside counsel have produced  
20 in the Minnesota litigation from those documents from  
21 the RLIB cold-stored files; correct?

22 A. I cannot.

23 Q. I've next marked a document Plaintiffs' Exhibit  
24 1016, Bates stamp number 87932074 to 82.

25 Do you recognize this document?

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1 A. Yes, I do.

2 Q. What I'd like to concentrate my questioning on  
3 here are the documents under "Legal" for the time  
4 being. Are these copies of all the files that are  
5 currently held in your document storage facility from  
6 the legal department?

7 A. This is a listing of the files currently held.

8 Q. It starts with box four. Do you happen to know  
9 where box one, two and three are?

10 A. No, sir. I would need to go back and look at  
11 my -- the files actually.

12 Q. There are also destruction dates listed on some  
13 of these documents that predate when this list was  
14 actually generated. Again just for clarification,  
15 does that mean that was a slated destruction date and  
16 in fact those documents have not been destroyed?

17 A. That is correct.

18 Q. It also appears that some of these files are  
19 listed as box location Kansas City. Are these again  
20 boxes that were sent to Shook, Hardy & Bacon?

21 A. Yes, sir.

22 Q. Are those boxes now back at Lorillard's storage  
23 facility?

24 A. Yes.

25 Q. At the present time are there any boxes from

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1 your collection that are in the offices of Shook,  
2 Hardy & Bacon?

3 A. No.

4 Q. What's the longest time period that a box was  
5 ever retained by Shook, Hardy & Bacon from your  
6 storage facility?

7 A. I can't state with specificity, but I know that  
8 they had retained some for a period of years.

9 Q. When those are sent to Kansas City -- and again  
10 it's my understanding this is outside of the archive  
11 system -- are those sent to a specific attorney or is  
12 there a specific place where those boxes are held?

13 A. There --

14 It was sent to the firm to be held by the firm  
15 on the firm's property.

16 Q. But as far as you know, there's no separate  
17 place where those are stored?

18 A. I'm not --

19 I'm not sure. I know they're housed on the  
20 property, and that's all I know.

21 Q. Who would I talk to about that issue?

22 A. Counsel, outside counsel.

23 Q. To the best of your knowledge and to the best of  
24 Lorillard's knowledge, were all of the boxes marked  
25 "Legal" reviewed during the 1995-1996 production?

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1 A. Yes.

2 Q. You cannot tell me what documents were collected  
3 out of the legal files, though, can you?

4 A. No, sir.

5 Q. And you cannot tell me what documents were  
6 actually produced out of the legal files; correct?

7 A. No. That is correct.

8 Q. Can you tell me what types of documents  
9 generally you keep in storage in the legal  
10 department? I mean, are these pleadings? Are they  
11 motions?

12 A. I have a lot of knowledge about the -- the types  
13 of -- of -- I cannot be complete. I want you to  
14 understand that, because I have not reviewed the  
15 records transfer lists in preparation for this  
16 meeting. But there would be information on  
17 trademarks, personnel-related EEO complaints, labor  
18 relations issues, litigation issues, you know, the --  
19 the vast array of the legal department's  
20 responsibilities.

21 Q. The next category on page 076 is internal  
22 audits. Now are those accounting-type audits?

23 A. Yes, sir.

24 Q. Legal Westborough Greens litigation, again I  
25 think you represented that that was a real estate

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1 litigation.

2 A. As I recall, it was real estate. It was --  
3 simply dealt with Loews Corporation. They were the  
4 owner.

5 Q. Do you house documents on behalf of Loews?

6 A. Yes.

7 Q. So your department again is one of the  
8 shared-function departments; right?

9 MR. MONICA: Object to the form of the  
10 question.

11 A. It's a service we provide to our parent  
12 company.

13 Q. Do you charge them for that service?

14 A. I've never seen a bill.

15 Q. I would next like to move into some of the  
16 documents we have -- you have previously made  
17 reference to, and I believe you call them RTLs.

18 A. Yes, records transfer lists.

19 Q. Okay. These are rather voluminous documents, so  
20 we'll heft them out of here.

21 MR. O'FALLON: Why don't we go off the  
22 record a second.

23 THE REPORTER: Off the record, please.

24 (Discussion off the record.)

25 (Jessup Plaintiffs' Exhibits 1017 and

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1 1018 were marked for identification.)

2 BY MR. O'FALLON:

3 Q. Ms. Jessup, you've talked in your previous  
4 testimony about RTLs, and again could you just  
5 redefine that for the record.

6 A. Records transfer list.

7 Q. I have marked as a -- as deposition -- as  
8 Plaintiffs' Exhibit 1018 a document Bates stamp  
9 numbered 87926349 through 432. Do you recognize this  
10 document?

11 MR. MONICA: May I ask, for clarification,  
12 in that are you representing that all numbers in  
13 between the two that you've recited are present? Are  
14 there any missing numbers?

15 MR. O'FALLON: I'm sorry. You know, in  
16 fact there may be a couple of missing numbers, and as  
17 I'm just looking through, at the very back of it it  
18 appears that there are. So we'll talk about -- I  
19 think we can talk about the missing numbers when we  
20 get to the very end here, if that's acceptable,  
21 Counsel.

22 MR. MONICA: I just want the record to be  
23 clear that, you know, someone might think there are a  
24 certain number of pages --

25 MR. O'FALLON: Right.

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1 MR. MONICA: -- when there -- when there  
2 isn't.

3 MR. O'FALLON: The best I can do is say  
4 these are all the documents between that range --  
5 range number that were produced by Lorillard.

6 BY MR. O'FALLON:

7 Q. Have you had a chance to look at 1018?

8 A. Yes.

9 Q. Is this an RTL?

10 A. This is multiple RTLs.

11 Q. Okay. And RTLs are kept by department listing;  
12 correct?

13 A. Yes.

14 Q. This first one appears to be a department RTL  
15 for which department?

16 A. What number do you refer to, sir?

17 Q. I'm sorry. I'm looking at -- there's some  
18 handwritten notes previously and I'll come back to  
19 those, but the first page I see is 87926354.

20 A. Okay.

21 Q. Is this the RTL for executive management?

22 A. This is the RTL for a category of records  
23 designated executive vice president, operations and  
24 research.

25 Q. Okay. And this was actually prepared by

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1 yourself; correct?

2 A. Yes.

3 Q. And this is a 26-page document, this portion of  
4 it anyhow?

5 A. I would assume it is if all the pages are  
6 there.

7 Q. And this particular document was prepared on  
8 April 12th of 1982; correct?

9 A. That's what's on the RTL. I would assume I was  
10 accurate at that time.

11 Q. Is a new RTL prepared every time new shipments  
12 of documents come in for a particular department?

13 A. The department prepares the RTL for each  
14 individual carton that is sent to the records  
15 center.

16 Q. So you would have prepared this RTL for a group  
17 of cartons that were being sent to the storage  
18 facility back when you were in the department;  
19 correct?

20 A. That is correct.

21 Q. Counsel and I were talking a little bit  
22 beforehand about whether or not these RTLs are  
23 repetitive, and so I'd just like you to turn to  
24 87926381.

25 A. I'm sorry, could you give me the last three

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1 numbers again.

2 Q. 381. Are you there?

3 A. 381?

4 Q. Yeah.

5 A. 87926381.

6 Q. Right.

7 A. Okay, I'm there.

8 Q. Would you look at the top of that document.

9 This document was prepared on January 6 of 1983;

10 correct?

11 A. That's -- so it states, yes.

12 Q. Is this a new listing that's separate from the

13 previous listing, the 26-page listing we just looked

14 at?

15 A. Yes, it's a subsequent list.

16 Q. Okay. And would that be true for the rest of

17 the document; that is, as new boxes arrive in the

18 storage facility, a new records transfer list would

19 be made out for just those boxes transferred?

20 A. That is correct.

21 Q. I ask you that because on some of the boxes

22 we're going to get to later I see entries on

23 different RTLs that have the same denotation. Now

24 I'm assuming that what's happening there is it's just

25 additional parts of that file are being sent back at

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1 a separate time. Would that be generally accurate?

2 A. Sir, I would need to see --

3 Q. Okay. Well we'll look at those specifically.

4 A. I want to make sure I'm not confused.

5 Q. Okay. I'll look at those specifically. But

6 it's your general practice that what would happen is

7 that every time a box comes back or a group of boxes

8 comes back from a department, a records transfer list

9 would be made for that box; correct?

10 A. Each time they are entered into the records

11 center, when they are -- for an -- I want to make

12 sure I'm clear on what you're asking. When I

13 submitted these first 20 -- how many -- or 12 boxes

14 or whatever it was in that first page -- 26-page

15 document, I prepared the listing, forwarded it to the

16 records center along with the records.

17 Q. Right.

18 A. The next time I was ready to submit records I

19 prepared a new listing for those cartons for which I

20 was then forwarding to the records center. Is

21 that --

22 Q. That is clear, and as a follow-up question to

23 that, the records transfer list that's originally

24 prepared for a group of documents sent to records

25 storage stays with that group of records the entire

1 time it's in the storage facility; correct?

2 A. No. The records are in the records center. The  
3 listings are in files in the department.

4 Q. Okay. That's not really what I'm meaning. What  
5 I'm meaning is that, for instance, if there's one box  
6 of records that's sent back to records storage and  
7 there's one transfer list for that box of documents,  
8 at some subsequent period there's not going to be a  
9 new transfer list for that box of documents; correct?

10 A. That is correct.

11 Q. Okay. And that's what I mean when I say it  
12 accompanies it. I don't mean physically accompanies  
13 it. I meant that you're only going to make one  
14 records transfer list for each box of documents sent  
15 back to -- to records storage; correct?

16 A. That is correct.

17 Q. Could you just turn to the very -- the second  
18 page of this document, very front of it.

19 Is that your handwriting on that page?

20 A. I believe all of it except perhaps this. That  
21 doesn't look like my handwriting.

22 Q. Okay. Do you know what you're referring to when  
23 you wrote down "TWG"?

24 A. I believe that would have referred to the  
25 Tobacco Working Group.

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- 1 Q. Okay. And the Tobacco Working Group was what?
- 2 A. I'm not eminently familiar. I'm just familiar
- 3 with the term from records.
- 4 Q. And then you dash off and you say a "Report by
- 5 Arthur D. Little"; is that right?
- 6 A. Yes.
- 7 Q. Could you read the rest of that.
- 8 A. "Approximately 1 inch thick, Tobacco Brown
- 9 Cover," quote, "'Flavoring in Cigarettes or
- 10 Tobacco.'" I think that's what the first word is,
- 11 end quote.
- 12 Q. Do you know why you wrote that?
- 13 A. No, sir, I don't.
- 14 Q. Do you know whether these are documents that are
- 15 kept in the storage facility that you're referring to
- 16 in this note?
- 17 A. I know that the cartons referenced here are in
- 18 the records center.
- 19 Q. Is your note meant to mean that that document's
- 20 in that carton?
- 21 A. Possibly.
- 22 Q. Why would this be kept?
- 23 A. These notes?
- 24 Q. Yes.
- 25 A. Let me go from a factual standpoint. Quite



1 often it is requested of us to pull records from the  
2 records center for a multiplicity of purposes, and  
3 this would be a typical notation that I and my staff  
4 would make as we are trying to locate the records.  
5 I -- I do not remember this instance. I -- I don't  
6 see a date, but that is a typical note that we would  
7 write to ourselves as we were attempting to locate  
8 records.

9 Q. Handwritten notes such as these are generated in  
10 the ordinary course of Lorillard's business; correct?

11 A. Yes.

12 Q. There's no proscription on handwritten notes;  
13 correct?

14 A. Absolutely not.

15 Q. And you're certainly encouraged to keep your  
16 handwritten notes when it's deemed important for you  
17 to perform your business function for Lorillard;  
18 correct?

19 A. Absolutely.

20 Q. Simply, handwritten notes are kept in files such  
21 as these when they're needed; correct?

22 MR. MONICA: Object to the form of the  
23 question -- question.

24 A. Yes. There's certainly no preclusion.

25 (Discussion off the stenographic record.)

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- 1 Q. I just have a couple specific questions. If  
2 you'd take a look at 362, please.
- 3 A. Yes.
- 4 Q. Are you there?
- 5 A. Yes, I am.
- 6 Q. I'd like you to look under EVPOR-7. It says  
7 "This is the beginning of files of Dr. A. W. Spears  
8 and are organized in the format of Research,  
9 MIS-related, Outside Concerns, and Alphabetized Files  
10 by year."
- 11 A. Yes.
- 12 Q. What's MIS related?
- 13 A. That would be again the management information  
14 systems, computer.
- 15 Q. Did Mr. Spears have a -- have a role in that?
- 16 A. At some juncture he -- the people in Greensboro  
17 or MIS related have a -- a reporting function to  
18 him.
- 19 Q. And that's what you believe that refers to  
20 there?
- 21 A. MIS related, since I did have familiarity with  
22 these files, it might -- it could be just routine  
23 correspondence related to that function.
- 24 Q. And it appears that for these particular groups  
25 of documents of Dr. Spears, that they don't have a

1 destruction date; correct?

2 A. That is correct.

3 Q. And this would denote that these documents were

4 sent in 1975 or that they were from 1975?

5 A. They --

6 The date of the actual record is 1975.

7 Q. Okay. Also ask you to turn to 87926368, and

8 under "Research" there what is an accessing report?

9 A. That's a typo.

10 Q. Oh.

11 A. It's an accession report.

12 Q. Okay. What is an accession report?

13 A. I made a mistake.

14 Q. Well that's okay.

15 A. Those were reports that were generated by our

16 scientist. They were given an accession number.

17 Q. What's an accession number?

18 A. It's a series of numbers to assign a number to a

19 report for our library purposes.

20 Q. Is there any way that I can tell from the

21 records transfer list what -- oh, I guess I would.

22 These would be all in box eight for EVPOR; right?

23 A. Which -- where are you now, sir?

24 Q. I'm sorry. I'm sorry. In this case it would be

25 box nine under EVPOR; correct?

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- 1 A. Yes, sir.
- 2 Q. Would you turn to 87926377. Specifically I'd
- 3 like to ask you about the Less Hazardous Cigarette
- 4 Working Group. What was that group; do you know?
- 5 A. I do not know the -- the technicalities of that,
- 6 sir.
- 7 Q. Was Dr. Spears a member of that group?
- 8 A. I'm not certain of that either.
- 9 Q. Do you know what kind of documents you sent back
- 10 regarding that group in this shipment?
- 11 A. All I can tell you from this listing is for the
- 12 years 1968, '75 and '76 apparently there was some
- 13 information about that entity, and I placed it in
- 14 files.
- 15 Q. Okay. Can you tell me whether or not these
- 16 documents were among the documents collected by
- 17 Lorillard in either 1985-1986 or sometime previous
- 18 and sent to the archives at Shook, Hardy & Bacon?
- 19 A. 1985 to '86?
- 20 Q. I'm sorry, 1995-'96.
- 21 A. I can assure you that these documents would have
- 22 been reviewed.
- 23 Q. You can't tell me whether these documents were
- 24 collected as that term has been used in this
- 25 deposition?

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- 1 A. No, sir, I cannot.
- 2 Q. Nor can you tell me whether those documents were
- 3 produced; correct?
- 4 A. I cannot.
- 5 Q. I'd ask you to look at Bates number 87926385.
- 6 A. 385?
- 7 Q. Yes. This references the personal journals of
- 8 Dr. A. W. Spears; correct?
- 9 A. Yes.
- 10 Q. What are these?
- 11 A. My recollection of those, when I placed them in
- 12 the records center, were his college research,
- 13 personal, non-Lorillard-related things is my
- 14 recollection of that, my present recollection. I
- 15 have not looked back at those records since 1983,
- 16 so -- but that's my recollection.
- 17 Q. Why do you think it was non-Lorillard related?
- 18 A. Because of the way I designated it. If I had
- 19 said -- personal journals, as I recall, would have
- 20 simply meant his personal information.
- 21 Q. Okay. When we said "journals," are we talking
- 22 like a handwritten diary?
- 23 A. I believe it would be like college lab
- 24 notebooks, you know, those types of things.
- 25 Q. Okay. The dates listed are the '50s, the '60s

1 and the '70s. I assume that he was out of college by  
2 the '60s and '70s; right?

3 A. Yes, yes.

4 Q. What were in those particular documents?

5 A. Sir, I don't recall.

6 Q. Do you recall whether those were like  
7 handwritten journals?

8 A. I don't.

9 Q. Do you recall if they were all bound?

10 A. I cannot state with -- with specificity that  
11 they were all bound notebooks, no.

12 Q. Can you tell me whether those documents were  
13 reviewed as part of the 1995-1996 document review or  
14 there -- or before?

15 A. This -- this entire category would have been  
16 reviewed.

17 Q. You can't tell me whether or not any documents  
18 were copied out of that box; correct?

19 A. No, I cannot, sir.

20 Q. And you cannot tell me whether any box -- any  
21 documents were produced out of that box; correct?

22 A. I cannot.

23 Q. Would you look at the next page, 386. Is that  
24 your handwriting at the top of that page?

25 A. I do not believe that is my handwriting, no.

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1 Q. Does that say "To KC"?

2 A. It's what it would appear to me.

3 Q. Does it mean at some point in time this  
4 particular box was shipped to Kansas City?

5 MR. MONICA: Objection, calls for  
6 speculation.

7 A. I don't know.

8 Q. Who would know?

9 A. I'm not sure anyone would know at this  
10 juncture.

11 Q. Do you have some kind of a system for  
12 documenting when a box is sent out and comes back?

13 A. We have.

14 Q. Was it in place in 1984?

15 A. It was.

16 Q. So there should be some written record;  
17 correct?

18 A. We -- if it had gone out -- if -- and I do not  
19 know that from this note. If it had gone to Kansas  
20 City and then was returned, at that juncture we were  
21 not keeping the loaned record forms. When the --  
22 when the records came back to the records center,  
23 they were relisted on our database. We knew we had  
24 them. We did not keep that form. So that's -- I  
25 have no idea.

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1 Q. Have you ever sent any documents to Kansas City,  
2 original documents, that never came back?

3 A. No, not to my knowledge.

4 Q. Just looking at the bottom of this, there's  
5 some -- there's a category called outside concerns.

6 A. Yes.

7 Q. Did Lorillard keep all the documents it received  
8 from The Council for Tobacco Research?

9 A. To the best of my knowledge.

10 Q. To the best of your knowledge, yes?

11 A. Yes.

12 Q. I say that just because sometimes it doesn't  
13 come across on the record that you're --

14 A. Thank you.

15 Q. I mean, I understand you, but sometimes for the  
16 record it doesn't come out.

17 A. Thank you.

18 Q. How about The Tobacco Institute? Did Lorillard  
19 keep all the documents from The Tobacco Institute?

20 A. To the best of my knowledge, yes.

21 Q. For The Council for Tobacco Research, there's a  
22 handwritten note there that says "Do not destroy.

23 Call Mr. Stevens prior to initiating  
24 destruction ...."

25 A. Yes.

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- 1 Q. Is that your handwriting?
- 2 A. Yes, it is.
- 3 Q. And who is Mr. Stevens?
- 4 A. Corporate counsel.
- 5 Q. Okay. And for all these documents, again when
- 6 there's an "N/A- Will Advise" means that there is no
- 7 destruction review date for any of these; correct?
- 8 A. That is correct.
- 9 Q. Would you look at 401. This appears to be a
- 10 letter from Ms. Carolyn Prairie to Shook, Hardy &
- 11 Bacon; correct?
- 12 A. Yes.
- 13 Q. Who is Ms. Carolyn Prairie?
- 14 A. Carolyn Prairie is secretary to Dr. Alex
- 15 Spears.
- 16 Q. Does Shook, Hardy & Bacon get copies of all the
- 17 records transfer lists?
- 18 A. No, they do not.
- 19 Q. Okay. Do you know why this particular records
- 20 transfer list was sent to Shook, Hardy & Bacon?
- 21 A. Of my personal knowledge, no.
- 22 Q. Is it a practice of Lorillard to have Shook,
- 23 Hardy & Bacon review their revisions, the Lorillard's
- 24 revisions, to records transfer lists?
- 25 A. No.

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1 Q. Is that what was going on here?

2 A. May I take a moment to review this in its  
3 entirety?

4 Q. Absolutely.

5 A. I'll make a couple of observations.

6 Q. Sure.

7 A. The letter is dated the same date as the records  
8 transfer listings.

9 Q. Okay.

10 A. I do not know what was taking place here, and I  
11 do -- do not wish to speculate. I will state for the  
12 record that Shook Hardy does not generate, correct,  
13 annotate or in any way impact our records transfer  
14 listings.

15 Q. Do you know why Shook, Hardy & Bacon would be  
16 sent this particular records transfer list?

17 A. I do have a speculation, which is only  
18 speculation.

19 Q. Well why don't you --

20 MR. MONICA: You're not required to  
21 speculate.

22 Q. Well although you're not required to speculate,  
23 you're probably the person with the most knowledge,  
24 at least sitting at this deposition, about this, so  
25 what would be your --

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1 MR. MONICA: Again the witness is not  
2 required to speculate.  
3 Q. -- guess?  
4 A. Unless --  
5 Q. Do you have a reasonable --  
6 Do you have a reasonable opinion as to what  
7 might have happened here? You were cc'd on the  
8 letter; isn't that correct?  
9 A. Yes.  
10 Q. So there is some knowledge that you had at least  
11 at some point in time about what took place here;  
12 correct?  
13 A. Well because I'm cc'd does not mean that I knew  
14 all the details.  
15 Q. Well why would you be cc'd?  
16 A. Basically she was forwarding under cc a copy of  
17 the records transfer list for the records retention  
18 system. That I have a reasonable opinion of.  
19 Q. Okay. Why don't you give me that reasonable  
20 opinion.  
21 A. I just did. She would be copying me on this  
22 letter because the letter is dated April 29, '92.  
23 The RTL -- the RTLs are dated 4/29/92.  
24 Q. Okay. Let's step back a second. You're the  
25 person who should be responsible for receiving

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1 records transfer lists, correct, in 1992?

2 A. In 1992, I was.

3 Q. Okay. You are apparently not being sent this  
4 particular records transfer list, correct, or are  
5 you?

6 A. By virtue of copy.

7 Q. Well you're copied on the letter. Do you think  
8 you're also copied on the attachment?

9 A. Sir, I would have to go back and look at my  
10 file.

11 Q. Okay. Would you have considered this something  
12 out of the ordinary, this letter that's dated  
13 April 29th, 1992?

14 A. Yes, I would.

15 Q. Would you have made inquiry about why this was  
16 happening?

17 A. I might have at the time. I do not recall  
18 making such an inquiry. Again I have not reviewed  
19 those files to determine if I made any notations or  
20 anything.

21 Q. If we just look at the next page, which is  
22 attached to that letter or -- or appears to be  
23 attached to that letter, are these a listing of the  
24 files that were apparently being sent to you for  
25 storage?

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- 1 A. I'm sorry, I was looking back at the letter.  
2 There was no reference to the -- the category or  
3 number of box.  
4 Q. Right. But there was a reference to a records  
5 transfer list being sent to and apparently discussed  
6 with a lawyer for Shook, Hardy & Bacon; correct?  
7 A. Yes.  
8 Q. Which may or may not be the next page; correct?  
9 A. That's correct.  
10 Q. I note on the next page, the third from the  
11 bottom is a listing for Kimberly-Clark. Do you see  
12 that?  
13 A. Yes.  
14 Q. And then it says "COPIED" next to it. What does  
15 that "COPIED" denote?  
16 A. Those would be files that have been copied for  
17 litigation --  
18 Q. Okay.  
19 A. -- I suspect.  
20 Q. So it appears that we do have at least some  
21 indication of what files are actually copied for  
22 litigation as to some of the various productions;  
23 correct?  
24 A. And here again I would -- I have not gone back  
25 and studied all of the RTLs in preparation for this

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1 meeting today. That is my surmise. I know of  
2 nothing else that could mean. That is a reasonable  
3 opinion --

4 Q. Okay.

5 A. -- having not reviewed this.

6 Q. Okay. And again this was a document that I had  
7 predesignated for this deposition; correct?

8 A. Sir, I did not see this. You know, I did not  
9 review all the RTLs prior to this. I --

10 Q. Okay. But did you review all the RTLs that I  
11 designated for today's -- for today's deposition?

12 A. No, I did not.

13 Q. Okay. Those weren't shown to you by counsel?

14 A. I saw a few. I knew that we had the -- the -- I  
15 knew that they had been -- there had been RTLs  
16 predesignated. I did not look at each one of these  
17 and discuss with counsel, no.

18 Q. Okay. And I'm not really asking whether you  
19 discussed with counsel. I'm just asking whether you  
20 physically looked at the documents.

21 A. No.

22 Q. Your testimony previously, as I understood it,  
23 was that there was no way you could tell what  
24 documents had been copied and sent to Shook Hardy.  
25 This document starting on page 87926402 by denoting

1 in parentheses "COPIED" would indicate that you  
2 can tell at least some of the files that have been  
3 copied and sent to Shook Hardy; correct?

4 MR. MONICA: I object to the form of the  
5 question, misstates her testimony. The word "COPIED"  
6 doesn't necessarily apply to Shook Hardy. I object  
7 on that basis.

8 Q. Is it your understanding that the word "COPIED"  
9 means it was selected for collection during one of  
10 the document reviews?

11 A. As I stated, I cannot state that completely, but  
12 that would be my best opinion.

13 Q. Okay. And copies of all the documents collected  
14 during all of your document reviews were sent to  
15 Shook, Hardy & Bacon; correct?

16 A. Yes.

17 Q. So if this word "COPIED" means what you have  
18 testified it means, it would also mean that copies of  
19 the documents so noted would have been sent to Shook,  
20 Hardy & Bacon; correct?

21 MR. MONICA: Object to the form of the  
22 question.

23 A. My testimony has been that it is my -- it is a  
24 reasonable opinion that this is what this indicates.

25 Q. And I'm taking your reasonable opinion.

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1 A. And as long as I -- as you understand and as I  
2 respond to your question, my reasonable opinion is  
3 that that is what this designation means.

4 Q. Okay. And just so we're clear, the person with  
5 the most knowledge about what "COPIED" mean would be  
6 you at Lorillard; correct?

7 A. That is correct.

8 Q. There's no person who would have more knowledge  
9 than you do?

10 A. That is correct.

11 Q. So your opinion, whether it's a reasoned opinion  
12 or not, is the best opinion at Lorillard; correct?

13 A. Yes, sir.

14 MR. MONICA: It's --

15 MR. O'FALLON: You want to take a quick ten  
16 minutes here?

17 MR. MONICA: Yeah.

18 THE REPORTER: Off the record, please.

19 (Recess taken.)

20 BY MR. O'FALLON:

21 Q. Let's go back to document page 402. At the  
22 bottom of that document again I think we established  
23 that the Kimberly-Clark documents, whatever they  
24 were, and they were copied and sent to Shook Hardy;  
25 correct?



1 A. It would be my reasoned opinion that that would  
2 be the case.

3 Q. You can't tell me whether or not those documents  
4 have been produced, can you?

5 A. No, sir.

6 Q. Let's look on page 405. Looking at the very top  
7 of that, it says "LEGAL DEPARTMENT/SPECIAL  
8 SUBJECTS." Do you see that?

9 A. Yes.

10 Q. Who is Dubbs?

11 A. Not familiar with that individual.

12 Q. Do you know what special subjects are?

13 A. I'm not certain what the individual meant by  
14 that. It would appear to be a heading for the files  
15 that follow it.

16 Q. There's a file apparently for Jacob, Medinger &  
17 Finnegan. Is that a law firm that represented  
18 Lorillard?

19 A. That is a law firm. I'm not -- I have heard of  
20 them. I'm not sure of the relationship.

21 Q. Do you know why you'd have documents from that  
22 firm if they weren't one of your counsel?

23 A. Here again, sir, they're not my departmental  
24 files, but no, I don't.

25 Q. Do you know whether or not those documents were

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1 reviewed as part of the 1995-'96 document review?

2 A. All documents in category -- category EVPOR were  
3 reviewed.

4 Q. You can't tell me whether or not those documents  
5 were collected; correct?

6 A. I cannot.

7 Q. Nor can you tell me whether or not those  
8 documents were produced; correct?

9 A. I cannot.

10 Q. Do you know what PMO is?

11 A. I'm not sure of the chemical term. It's a -- it  
12 is a term for a -- a shortened acronym term for a  
13 chemical.

14 Q. Bio-Research Consultants, are they consultants  
15 that were used by Lorillard?

16 A. I here again have heard the name. I do not know  
17 the -- the relationship.

18 Q. You can't tell me whether or not that file was  
19 copied and sent to Shook Hardy; correct?

20 A. I can only state that it was reviewed. If  
21 relevant, it was collected, later reviewed for  
22 responsiveness, and if responsive would have been  
23 produced.

24 Q. But you don't know what determination was made  
25 as to what was relevant or not; correct?

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- 1 A. No, sir, I do not. For that particular file,  
2 no.
- 3 Q. And you don't know whether specific files were  
4 actually collected; correct?
- 5 A. I do not.
- 6 Q. And you don't know whether they were produced;  
7 correct?
- 8 A. I do not.
- 9 Q. I'd like you to look at page 410. This is  
10 another EVPOR file; correct?
- 11 A. Yes, sir.
- 12 Q. And again there's a reference to Kimberly-Clark;  
13 correct?
- 14 A. That is correct.
- 15 Q. Do you know what the denotation "K - General  
16 1986 to 90" means?
- 17 A. I did not prepare the file. I do not know.
- 18 Q. Okay. But you're storing the file; correct?
- 19 A. That is correct.
- 20 Q. Do you make any attempt when you get in these  
21 records transfer lists to check them against the  
22 boxes so you have some understanding of what's in the  
23 boxes?
- 24 A. No, sir, I don't.
- 25 Q. You can't tell me whether or not the

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- 1 Kimberly-Clark documents were collected in the  
2 1995-to-1996 document review; correct?
- 3 A. That is correct.
- 4 Q. And you can't tell me whether or not those  
5 documents were produced in the Minnesota litigation;  
6 correct?
- 7 A. That is correct.
- 8 Q. I'd like you to look at page 413.
- 9 A. Excuse me.
- 10 Q. Again I assume if I want to know what's actually  
11 in these files, I would either have to speak to  
12 Dr. Spears or Carolyn Prairie, is that accurate,  
13 what's physically in the files we've just been  
14 looking at?
- 15 A. Yes, sir.
- 16 Q. Okay. Because they're the two people who either  
17 were responsible for the boxes or prepared the boxes;  
18 correct?
- 19 A. That is correct.
- 20 Q. On this page can you tell me who -- Borrison  
21 Labs Testing Program, can you tell me what that is?
- 22 A. I believe that I'm familiar with that -- the  
23 name of that firm.
- 24 Q. Do you know what they did for Lorillard?
- 25 A. No, I don't.

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1 Q. It's your understanding that these documents  
2 were reviewed; correct?

3 A. That is correct.

4 Q. But you can't tell me whether or not these  
5 documents were selected for copying; correct?

6 A. That is correct.

7 Q. And you can't tell me whether these documents  
8 were produced in the Minnesota litigation; correct?

9 A. That is correct.

10 Q. Do you know who Microbiological Associates are?

11 A. Yes.

12 Q. And who are they?

13 A. They're one of the outside testing firms.

14 Q. What do they test?

15 (Discussion off the stenographic record.)

16 A. Sir, I'm not eminently familiar with the various  
17 tests they run for us.

18 Q. Are you familiar with any of the tests they run  
19 for you?

20 A. No.

21 Q. Who would be the person I'd talk to?

22 A. I'm trying to determine who would be the best  
23 person. I'm thinking about that.

24 Probably be Dr. Dan Heck.

25 Q. And again as to these files listed under

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1 "RESEARCH TESTING PROGRAM," it's your testimony that  
2 these files were reviewed during the document review  
3 process at Lorillard; correct?

4 A. That is correct.

5 Q. You cannot tell me whether or not any of these  
6 documents were selected for copying; correct?

7 A. That is correct.

8 Q. And you can't tell me whether any of these  
9 documents have been produced; correct?

10 A. That is correct.

11 Q. Look on the next page, 414. Do you know what  
12 kind of documents are contained in the file labeled  
13 "COVINGTON & BURLING"?

14 A. No, sir, I do not.

15 Q. Is Covington Burling a law firm that represents  
16 Lorillard?

17 A. It is a law firm with an association with  
18 Lorillard.

19 Q. Do you know what the nature of that association  
20 is?

21 A. I believe they are responsible for preparation  
22 of an ingredients listing for the United States  
23 Government.

24 Q. Do you believe that's what this particular file  
25 refers to?

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1 A. Sir, I would not know.

2 Q. Okay. There's also a reference to TAN;

3 correct?

4 A. Yes.

5 Q. That's a lobbying organization; correct?

6 A. I believe that's correct, yes.

7 Q. That's a lobbying organization formed by the

8 tobacco companies?

9 MR. MONICA: Object to the form of the  
10 question.

11 A. I do not know the background or history.

12 Q. Is Lorillard a member of TAN?

13 MR. MONICA: Again she's not been  
14 designated to testify as to associations of which  
15 Lorillard is a member. It's beyond the scope of the  
16 notice. Object on that basis.

17 Q. Do you know whether they are or not?

18 A. I don't know.

19 Q. There's also a file for the Shook, Hardy & Bacon  
20 law firm.

21 A. Yes, sir.

22 Q. Under that, is that portions of that file that  
23 are listed, Smoke Components, BATCo/Panorama TV press  
24 cuttings and Texas/Almquist Request for Admissions  
25 List?

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1 A. I do not know if that's a single file or  
2 multiple files.

3 Q. Are you familiar with any of those documents?

4 A. No, sir.

5 Q. Are you familiar at all with the Panorama TV  
6 program that's referred to there?

7 A. No, sir.

8 Q. You're not familiar with any of the statements  
9 made by Dr. Green during that program?

10 MR. MONICA: Object to the form of the  
11 question -- question.

12 A. I'm sorry, could you repeat that? I'm not --

13 Q. You're not familiar with any statements made by  
14 a representative of BATCo during that TV program?

15 MR. MONICA: Same objection.

16 A. No, sir.

17 Q. Do you know whether these documents were copied  
18 for production by Lorillard?

19 A. I do not know.

20 Q. And again the people who would know would be  
21 outside counsel; correct?

22 A. That is correct.

23 Q. Would you also look at document Bates stamp  
24 number 87926418. Under "EVPOR 59" there are three  
25 designations for smokeless tobacco. Do you know what

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1 that refers to?

2 A. I do not know what the information in the files

3 is.

4 Q. How is that term generally used at Lorillard?

5 A. Smokeless tobacco?

6 Q. Is that chewing tobacco?

7 A. Chewing tobacco, snuff.

8 Q. Okay. It's not referred to a smokeless

9 cigarette, is it?

10 A. Not to my knowledge.

11 Q. No further questions on that exhibit. Let's

12 move on to Exhibit 1017.

13 Could we first look at -- first of all, do you

14 recognize Exhibit 1017?

15 A. In its entirety, sir?

16 Q. Yes.

17 A. I recognize that these are records transfer

18 lists.

19 Q. This is a compilation of records transfer lists

20 for the legal department; isn't that correct?

21 A. That would be apparent or that's what it would

22 appear to be.

23 Q. Okay. I'd like you to turn to Bates number

24 87928306. Who is Mr. Ave? Is that how you pronounce

25 that?

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- 1 A. Ave.
- 2 Q. Ave. Who's Mr. Ave?
- 3 A. Mr. Ave was president of our company.
- 4 Q. At one point in time did he also have some
- 5 responsibility for R&D, or not?
- 6 A. As president of the company, he would have had
- 7 responsibility for the entire company.
- 8 Q. Okay. I'm sorry, he wasn't president the entire
- 9 time he was at Lorillard, was he?
- 10 A. No. Prior to that, he was with the advertising
- 11 and brand management --
- 12 Q. Okay. Thanks.
- 13 A. -- area.
- 14 Q. Can you tell me what the Eastern district grand
- 15 jury subpoena matter is?
- 16 A. No, sir, I don't know.
- 17 Q. Who would know that?
- 18 A. The department that submitted the information.
- 19 Q. Who specifically would I talk to if I wanted to
- 20 know that?
- 21 A. Lorillard counsel.
- 22 Q. Internally at Lorillard who would I talk to?
- 23 A. General counsel.
- 24 Q. You don't happen to know specifically who was
- 25 responsible for this particular file, do you?

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1 A. The individual listed, Phyllis DiGiaimo, is a  
2 secretary.

3 Q. Okay. How come there's no notation of the date  
4 of the records on this list?

5 A. I don't know the answer to the question.

6 Q. Is it your requirement that records be dated  
7 before they're sent to your department?

8 A. We ask that they be dated.

9 Q. And when they're not dated, what do you do?

10 A. As a general rule, I do not pursue that and  
11 insist on a date.

12 Q. So you don't find that important?

13 MR. MONICA: Object to the form of the  
14 question.

15 A. Basically if you'll look in the destruction  
16 review column, it says "PERMANENT RECORDS. DO NOT  
17 DESTROY." The date of the records column is  
18 basically for -- to assist us in retention of  
19 records, business records, so that would not concern  
20 me, no, sir.

21 Q. Do you know whether or not this file was  
22 reviewed as part of the 1996 -- 1995-1996 document  
23 review?

24 A. Yes.

25 Q. Is it your testimony that it was reviewed?

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- 1 A. It is my testimony that it was reviewed.
- 2 Q. But you can't tell me whether or not any part of
- 3 it was copied for production; correct?
- 4 A. That is correct.
- 5 Q. Nor can you tell me whether any part of it was
- 6 actually produced; correct?
- 7 A. That is correct.
- 8 Q. You can also not tell me whether or not that
- 9 particular matter has any relationship to smoking and
- 10 health; correct?
- 11 A. That is correct.
- 12 Q. Let's look on page 309. There's a listing under
- 13 "FOLDERS" of "Physiological Action of Tobacco Smoke
- 14 & Factors Involved"; correct?
- 15 A. I'm sorry, where?
- 16 Q. I'm looking --
- 17 A. On 309?
- 18 Q. 309. It's under "FOLDERS." It's the second one
- 19 down.
- 20 A. Oh, sorry. Yes, yes.
- 21 Q. Do you know whether that file was reviewed at
- 22 any time for document production?
- 23 A. That file would have been reviewed.
- 24 Q. When?
- 25 A. Possibly multiple times.

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1 Q. Do you know whether it's ever been copied for  
2 production?

3 A. I do not know.

4 Q. Do you know whether it's ever been produced?

5 A. I do not know.

6 Q. There's also a heading called "Nicotinic Acid."

7 Do you know what that refers to?

8 A. No, sir, I don't.

9 Q. And do you know whether that file was copied for  
10 production at any point in time?

11 A. I know that it has been reviewed. I do not know  
12 if it has been copied or produced.

13 Q. Just so you don't have to repeat that answer on  
14 all these, I assume that the entire legal files that  
15 were in stored files were reviewed.

16 A. Yes, sir.

17 Q. Okay. But you can't tell me whether it was  
18 copied for production; correct?

19 A. That is correct.

20 Q. Nor can you tell me whether it was produced;  
21 correct?

22 A. That is correct.

23 MR. MONICA: Is this a good place to stop?

24 MR. REILLY: It's just about 5:30.

25 MR. O'FALLON: Yeah, I guess so.

1 THE REPORTER: Off the record, please.

2 (Deposition recessed at 5:24 o'clock

3 p.m.)

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1 C E R T I F I C A T E

2 I, William C. LaBorde, hereby certify that  
3 I am qualified as a verbatim shorthand reporter; that  
4 I took in stenographic shorthand the testimony of  
5 HALLIE S. JESSUP at the time and place aforesaid; and  
6 that the foregoing transcript consisting of pages 1  
7 through 262, Volume I, is a true and correct, full  
8 and complete transcription of said shorthand notes,  
9 to the best of my ability.

10 Dated at Charlotte, North Carolina, this  
11 10th day of April 1997.

12

13

14

15 WILLIAM C. LaBORDE

16 Registered Professional Reporter

17 Notary Public

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19

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## 1 C E R T I F I C A T E

2 I, HALLIE S. JESSUP, the deponent, hereby  
3 certify that I have read the foregoing transcript  
4 consisting of pages 1 through 262, Volume I, and that  
5 said transcript is a true and correct, full and  
6 complete transcription of my deposition, except per  
7 the attached corrections, if any.

8

9 (Please check one.)

10

11 \_\_\_\_ Yes, changes were made per the attached  
12 (no.) \_\_\_\_ pages.

13

14 \_\_\_\_ No changes were made.

15

16

17 HALLIE S. JESSUP

18 Deponent

19

20 Sworn and subscribed to before me this day  
21 of 199\_\_.

22

23

24 Notary Public

25 My commission expires: (WCL)

STIREWALT & ASSOCIATES  
P.O. BOX 18188, MINNEAPOLIS, MN 55418 1-800-553-1953